

THE HIV AND AIDS (AMENDMENT) BILL

(No. XIX of 2022)

Explanatory Memorandum

The main object of this Bill is to amend the HIV and AIDS Act so as to broaden the scope of HIV testing nationwide and allow for a greater number of persons to know their HIV status. Accordingly, the Bill makes provisions to enable a person to conduct his own HIV test through the use of an HIV Self-Test or a Directly Assisted HIV Self-Test, other than the mandatory requirement for an HIV test to be conducted only by a medical practitioner, a nursing officer, the paramedical staff or trained non healthcare providers.

2. The Bill also provides, in the context of the Needle Exchange Programme 2006 with a view to preventing HIV and other blood borne infections, for the exchange, in addition to syringes and needles exchange, of paraphernalia kits such as sterile cooker, alcohol swab, dry cotton swab, cotton filter and sterile water.

K. K. S. JAGUTPAL

Minister of Health and Wellness

25 November 2022

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ARRANGEMENT OF CLAUSES

Clause

1. Short title
 2. Interpretation
 3. Section 2 of principal Act amended
 4. Section 4 of principal Act amended
 5. Section 5 of principal Act amended
 6. Section 7 of principal Act amended
 7. New section 7A inserted in principal Act
 8. Section 11 of principal Act amended
 9. Section 14 of principal Act amended
 10. Section 15 of principal Act amended
 11. Section 16 of principal Act amended
 12. Commencement
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A BILL

To amend the HIV and AIDS Act

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the HIV and AIDS (Amendment) Act 2022.

2. Interpretation

In this Act –

“principal Act” means the HIV and AIDS Act.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended –

- (a) by deleting the definition of “HIV test” and replacing it by the following definition –

“HIV test” –

- (a) means a test which determines whether or not a person is infected with HIV; and
- (b) includes a Directly Assisted HIV Self-Test or an HIV Self-Test;
- (b) in the definition of “institution”, by deleting the word “hospital” and replacing it by the words “public hospital, private hospital”;
- (c) by inserting, in the appropriate alphabetical order, the following new definitions –

“Directly Assisted HIV Self-Test” means a test conducted by a person, upon himself, under the guidance of a medical practitioner, a nursing officer, a paramedical staff or such other person trained for that purpose by the Ministry;

“HIV Self-Test” means a process through which a person collects his own specimen of saliva or blood and conducts his own HIV test;

“paraphernalia kit” includes sterile cooker, alcohol swab, dry cotton swab, cotton filter and sterile water;

- (d) by adding the following new definition, the full stop at the end of the definition of “positive” being deleted and replaced by a semicolon –

“reactive”, in relation to an HIV Self-Test, means a result which is only preliminary and which necessitates further HIV confirmatory tests.

4. Section 4 of principal Act amended

Section 4 of the principal Act is amended by deleting the heading and replacing it by the following heading –

4. Registration for HIV testing facilities

5. Section 5 of principal Act amended

Section 5 of the principal Act is amended –

- (a) by deleting the heading and replacing it by the following heading –

5. HIV testing in public and private health institutions

- (b) by adding the following new subsection, the existing provision being numbered as subsection (1) –

(2) A private health institution or pharmacy which is registered under section 4 may provide such facility as may be necessary for a person to conduct an HIV Self-Test.

6. Section 7 of principal Act amended

Section 7 of the principal Act is amended –

- (a) by deleting the heading and replacing it by the following heading –

7. HIV testing on request of medical practitioner

- (b) in subsection (1), by deleting the words “No person” and replacing them by the words “Subject to section 7A, no person”.

7. New section 7A inserted in principal Act

The principal Act is amended by inserting, after section 7, the following new section –

7A. HIV self-testing

A person may conduct an HIV Self-Test or make a request for a Directly Assisted HIV Self-Test.

8. Section 11 of principal Act amended

Section 11 of the principal Act is amended –

- (a) by inserting, after subsection (1), the following new subsection –

(1A) Any person who conducts an HIV Self-Test, the result of which is reactive, shall undergo an HIV test at a public health institution to confirm whether the test is positive.

- (b) in subsection (2), by inserting, after the words “test is positive”, the words “under subsection (1) or (1A)”.

9. Section 14 of principal Act amended

Section 14 of the principal Act is amended –

- (a) by deleting the heading and replacing it by the following heading –

14. Syringe, needle and paraphernalia kit exchange

- (b) in subsection (1), by deleting the words “syringes and needles” and replacing them by the words “syringes, needles and paraphernalia kits”;
- (c) in subsection (2), by deleting the words “or a new needle” and replacing them by the words “, new needle or new paraphernalia kit”;
- (d) in subsection (4), by deleting the word “or needles” and replacing them by the words “, new needles or new paraphernalia kits”.

10. Section 15 of principal Act amended

Section 15 of the principal Act is amended by deleting the words “or needles” and replacing them by the words “, needles and paraphernalia kits”.

11. Section 16 of principal Act amended

Section 16 of the principal Act is amended –

- (a) by deleting the heading and replacing it by the following heading –

16. Possession of syringes, needles and paraphernalia kits

- (b) by deleting the words "or needle" and replacing them by the words ", needle or paraphernalia kit".

12. Commencement

This Act shall come into operation on a date to be fixed by Proclamation.
