

SECTION 24 OF HAPCA 2006

Section 24 of the Act which is the subject of challenge in this petition provides as follows:

(1) A person who is and is aware of being infected with HIV or is carrying and is aware of carrying the HIV virus shall— (a) take all reasonable measures and precautions to prevent the transmission of HIV to others; (b) inform, in advance, any sexual contact or person with whom needles are shared of that fact. (2) A person who is and is aware of being infected with HIV or who is carrying and is aware of carrying HIV shall not, knowingly and recklessly, place another person at risk of becoming infected with HIV unless that other person knew that fact and voluntarily accepted the risk of being infected.

(3) A person who contravenes the provisions of subsection (1) or (2) commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding seven years, or to both such fine and imprisonment.

(4) A person referred to in subsection (1) or (2) may request any medical Practitioner or any person approved by the Minister under section 16 to inform and counsel a sexual contact of the HIV status of that person.

(5) A request under subsection (4) shall be in the prescribed form.

(6) On receipt of a request made under subsection (4), the medical practitioner or approved person shall, whenever possible, comply with that request in person.

(7) A medical practitioner who is responsible for the treatment of a person and who becomes aware that the person has not, after reasonable opportunity to do so— (a) complied with subsection (1) or (2); or (b) made a request under subsection (4), may inform any sexual contact of that person of the HIV status of that person.

(8) Any medical practitioner or approved person who informs a sexual contact as provided under subsection (6) or (7) shall not, by reason only of that action, be in breach of the provisions of this Act.