

# **ALTRON POLICY MANUAL**

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## **PART F - SECTION 5**

### **HIV/AIDS POLICY**

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## Part F Section 5 - HIV/AIDS Policy

### 1. **Definitions**

In this Policy, unless the context indicates otherwise, the following words will mean:-

**Altron Group** : Allied Electronics Corporation Limited and its subsidiary and associated companies.

**Art** : Anti-Retroviral Therapy.

**Aids** : Acquired immune deficiency syndrome.

**Care** : steps taken to promote a person's well-being through medical, psycho-emotional and other means

**Confidentiality** : keeping personal information of an employee from others unless such employee consents to disclosure.

**Counselling** : a structured process in terms of which a person is advised and assisted to take control of problems or challenge in his/her own life.

**Discrimination** : unjustly treating a person differently e.g. on basis of race, colour sexual orientation, sex or HIV status.

**Epidemic** : a disease that spreads rapidly through demographic area of the human population.

**Evaluate** : assessment of the impact of any particular condition or circumstances and the results of specific actions taken at a given time.

**High Risk behaviour** : engaging in activities or following procedures that will result in harm to oneself e.g. not applying universal precautions in the workplace.

**HIV** : Human Immunodeficiency Virus, which attacks and ultimately destroys the body's natural immune system.

**Immune System** : a complex system of cells and substances that protects the body from harmful effects or infection or disease.

**Informed consent (relative to HIV/Aids testing)** : consent given by a person who understands the nature of the test(s) and is willing to undergo the test(s). A person will understand the nature of the test if the person knows:-

1. the purpose of the test;
2. the advantages and disadvantages of being tested;
3. why the health worker needs the test results;
4. what influence the test results will have on his/her treatment;
5. the psychological, ethical and social consequences of a positive result.

### 2. **Preamble**

The Altron Group recognises the impact that HIV/Aids will have on its ability to realise its vision and achieve its business objectives. Accordingly, the Altron group has adopted this HIV/Aids policy to ensure that a working environment is created and maintained, which is conducive to attracting, motivating, training and retaining skilled people. This policy will be reviewed on an annual basis to ensure that it does not contradict any relevant legislative requirements.

## **The Altron Group:**

- acknowledges that HIV/Aids knows no social, gender, age or racial boundaries;
- recognises that on the basis of current medical and scientific evidence, HIV/Aids cannot be transmitted through casual personal contact in the normal course of activity in the work environment and under normal working conditions and does not present a risk to the health or safety of co-workers or clients under such conditions.
- Strives to ensure a working environment where -
  - Employees living with HIV/Aids are protected from unfair discrimination and stigmatisation; and
  - All employees have access to training, information and counselling services relating to HIV/Aids; and
- Is committed to ensuring and maintaining a safe and healthy working environment for all employees. Employees living with HIV/Aids will be treated with dignity, compassion and respect.

### **3. Objectives of this HIV/Aids policy**

Prevent unfair discrimination and prejudice against employees living with HIV/Aids;

- a) Minimise fear and panic among employees;
- b) Ensure stability and productivity in the workplace;
- c) Encourage disclosure by HIV/Aids employees without fear of victimisation or prejudice;
- d) Enable line management to respond appropriately in the event of an HIV/Aids related case;
- e) Minimise Altron's liability to wrongful conduct by its employees in relation to HIV/Aids; and
- f) Empower employees to prevent the spread of HIV and Aids through training and education.

This HIV/Aids has been developed to guide employees in understanding, assessing and responding to HIV/Aids in the workplace.

## **4 Employee policies**

- 4.1 No applicant, satisfying all the requirements for any particular position shall be refused employment solely on the basis of their HIV/Aids status;
- 4.2 Present and future employees may not be refused promotion on the basis of their HIV/Aids status. Any employee benefits to which employees are entitled will be determined by the rules of the relevant schemes.
- 4.3 Employees living with HIV/Aids will be managed in the same way as other employees with life threatening diseases. They are expected to meet the same performance requirements that apply to other employees, with reasonable accommodation where necessary.

- 4.4 An employee cannot be dismissed because he/she is HIV positive, nor will the HIV/Aids status of an employee influence any retrenchment procedures to retrenchment process/exercise.
- 4.5 Employees living with HIV/Aids will be retained in their positions for as long as they meet the inherent job requirements and subject to the reasonable requirements of the business. When due to medical reasons an employee can no longer continue with his/her normal duties, efforts will be made to offer reasonable alternative employment. When the employee becomes too ill to perform his/her duties, the standard procedure to manage and accommodate the employee prior to termination of employment due to incapacity, will apply without any discrimination.
- 4.6 Any termination of employment in accordance with paragraph 4.5 above shall take cognisance of the Codes of Good Practice: Dismissal and Code: Key Aspects of HIV/Aids and Employment.

## 5 **Disclosures and Confidentiality**

The Altron group respects an individual's right to confidentiality and therefore there will be no HIV screening of applicants for recruitment and/or any employment condition. Nothing in the pre-employment application/interview process will compel any applicant to declare his/her HIV/Aids status.

- 5.1 Employees are under no obligation to disclose their HIV/Aids status to Altron to any other member company of the Altron group.
- 5.2 When an employee tests positive for HIV, the diagnosing doctor can only inform the employer with the employee's written consent. In this regards, any information supplied by the employee to the employer will be treated as confidential.
- 5.3 Employees living with HIV/Aids are encouraged to inform their medical aid scheme of their status and to participate in its HIV/Aids and wellness programmes.
- 5.4 Managers who have become aware of an employee's HIV status are required to:-
  - be sensitive to any special needs of the employee;
  - when necessary, reasonably accommodate the employee to enable him/her to meet performance criteria; and
  - maintain confidentiality at all times.

## 6 **Grievance procedures**

- 6.1 Should an employee refuse to work with an HIV-positive colleague, steps will be taken to educate the employee of the fact that there is no risk of infection through casual contact. If the employee's unjustified behaviour persists, disciplinary action consistent with the relevant Altron group disciplinary procedures may be invoked.
- 6.2 HIV/Aids related grievances will be dealt with in terms of the relevant Altron group standard grievance procedures.

## 7 **Employee benefits**

- 7.1 In respect of benefits, employees infected with HIV or Aids will be treated in the same way as other employees living with life threatening diseases.
- 7.2 The rules of the relevant benefit schemes will determine the benefits to which an employee infected with HIV/Aids is entitled. Such rules will comply with all applicable

legislation.

- 7.3 The Altron Medical Aid Scheme has outsourced its HIV/Aids management programme to a designated service provider with related benefits.

## **8 Management of HIV/Aids in the workplace**

Equitable management practices must be exercised when dealing with employees infected with HIV or Aids.

## **9 Counselling**

- 9.1 HIV/Aids counselling is available through the service provider appointed by the Altron Medical Aid Scheme to members of that scheme, as well as through the clinics at certain Altron group companies.
- 9.2 Other professional services are available through wellness programmes arranged by Altron group companies from time to time.

## **10 Awareness and education**

10.1 Information on HIV/Aids is to be provided to employees, as deemed necessary by operational management, through training, workshops, industrial theatre, guest speaker programmes and electronic media.

10.2 All new employees will receive basic information on HIV/Aids during induction sessions.

10.3 Employees may contact Group Human Resources:-

- a) to obtain information on HIV/Aids;
- b) for reference to other institutions for more comprehensive medical information; and/or
- c) to obtain information on available resources for HIV/Aids within and outside Altron.

10.4 Additional information may be obtained from:-

- Human Resources Department of the various Altron group companies;
- Altron Medical Aid (if a member) (0860222999); or
- National AIDS Helpline (0800 012 322)

## **LEGAL FRAMEWORK**

The following legal and policy framework covers the development, application implementation review and monitoring and evaluation of this policy:

### **Chapter 2 of The Constitution of the Republic of South Africa (No 108 of 1996)**

Provides that all persons will have equality before the law and equal benefit and protection of the law and freedom from unfair discrimination, the right to respect and protection of dignity, the right to freedom and security of the person, the right of access to information, the right to fair labour practices and other fundamental rights.

### **The Employment Equity Act (No 55 of 1998)**

This Act prohibits all forms of unfair discrimination. The Act provides that HIV testing in the workplace can only be done provided the resting is approved by the Labour Court. A code of good practice on key aspects of HIV/Aids was introduced by S54 Of the Employment Equity Act. The Code of Good Practice on key aspects of HIV/Aids guides the development, implementation, review, monitoring, and evaluations of this policy. Voluntary testing however does not require approval of the Labour Court.

### **The Labour Relations Act (No 66 of 1995)**

The Labour Relations Act regulates the relationship between employers and employees and protects the rights of employees against potential abuse by their employers. This Act gives effect to fundamental rights in the South African Constitution. It prohibits unfair labour practices by protecting employees from being unfairly dismissed simply because they are HIV positive and from being discriminated against with regard to employee benefits, staff training, and other work related opportunities. The Labour Relations Act provides a framework in which employers and employees can negotiated in issues of common interest.

### **Basic Conditions of Employment Act (No 75 of 1997)**

This Act lays down the basic minimum conditions of employment and gives effect to the right to fair labour practices as provided for in the Bill of Rights in the South African Constitution. This Act covers a broad range of issues, including acceptable working hours, working breaks, annual and paid sick leave, overtime, termination of employment, maternity leave, family responsibility leave and other basic rights.

### **The Occupational Health and Safety Act (No 85 of 1993)**

This Act accords rights and imposes duties on both employers and employees. It imposes duties on employers to ensure a reasonable safe and healthy working environment by providing protective equipment, training and education and adequate supervision. Employees must obey health and safety rules and report any unsafe or unhealthy situations to the relevant person.

### **The Compensation for Occupational Injuries and Diseases Act (No 75 of 1993)**

This Act set out the terms in which employees are compensated for injuries or diseases contracted in the work environment. The Act provides for lump sum payments and benefits or temporary or permanent disablement, as well as death benefits.

### **Skills Development Act (No 56 of 1998)**

The main focus of this Act is to provide entrance to the labour market and access to training and education for previously disadvantaged individuals. The purpose of the Skills Development Act is to develop plans and improve the sills of the South African workforce. This Act aims at the provision of learnerships that lead to recognised occupational qualifications.

**The Medical Schemes Act (No 131 of 1998)**

Medical Schemes are governed by the Medical Schemes Act. This Act protects the interests of members of medical schemes by setting out guidelines on the terms and conditions for membership of schemes. The Act prohibits unfair discrimination on a number of grounds. It also prohibits risk rating. Risk rating is making people pay more because they are seen as being a member of a higher risk group (e.g. people living with HIV/Aids). This Act provides that the premiums payable by members must be determined on the basis of income or the number of dependants or both. Determination of premiums cannot be based on any other grounds such as sex, past or present state of health of the applicant or his/her dependants. The Act imposes penalties on "late jointers" of a scheme. A "late joiner" refers to an applicant or dependant of the applicant who, at the date of applying for the membership, is 35 years or older and has not been a member of another medical scheme during the period of two years before applying for membership. Penalties may include the payment of higher premiums.

**Promotion of Access to Information Act (No 2 of 2000)**

This Act provides for the right of access to information that is held by public and private bodies. A procedure is provided for in terms of which individual may apply for access to information if such information is needed for the purposes of exercising a right.

**Promotion of Administrative Justice Act (No 3 of 2000)**

This Act makes provision for procedurally fair administrative action.

**The Protected Disclosures Act (No 26 of 2000)**

To make provision for procedures in terms of which employees in both the private and public sector may disclose information regarding unlawful or irregular conduct by their employers or other employees in the employ of their employers. It further provides for the protection of employees who make a disclosure in terms of the Act.

**Code of Good Practice on Key Aspects of HIV/Aids and Employment (2000)**

This Code seeks to assist attainment of the following goals:-

- Eliminating unfair discrimination in the workplace based on HIV status;
- Promoting a non-discriminatory workplace in which people living with HIV/Aids are open about their HIV status without fear or stigma or rejection;
- Promoting appropriate and effective ways of managing HIV in the workplace;
- Creating a balance between the rights and responsibilities of all the parties; and
- Giving effect to the regional obligations of the Republic as a member of the Southern Africa Development Community.

**Unemployment Insurance Act (No 63 of 2001)**

To establish an Unemployment Insurance Fund. To provide for the payment from the fund of benefits to certain employees, and for the payment of illness, maternity, adoption and dependants benefits related to the unemployment of such employee.