

GOVERNMENT OF ZAMBIA

ACT

No. 10 of 2002

Date of Assent: 31st December, 2002

An Act to establish the National HIV/AIDS/STI/TB Council, define its functions and provide for its composition; to constitute the Secretariat of the Council, define its functions and provide for its composition; and to provide for matters connected with or incidental to the foregoing.

[31st December, 2002

ENACTED by the Parliament of Zambia.

Enactment

PART 1
PRELIMINARY

1. This Act may be cited as the National HIV/AIDS/STI/TB Council Act, 2002 and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title
and
commence-
ment

2. In this Act, unless the context otherwise requires—

Interpretation

“appointed date” means the date appointed by the Minister under section *one*;

“AIDS” means Acquired Immune Deficiency Syndrome;

“committee” means a committee of the Council constituted under section *nine*;

“Council” means the National HIV/AIDS/STI/TB Council established under section *three*;

“Director-General” means the person appointed Director-General of the Council under section *fourteen*;

“HIV” means Human Immune Deficiency Virus;

“Member” means a person appointed member of the Council under section *five*;

“STI” means Sexually Transmitted Infections;

“TB” means tuberculosis;

“ secretariat ” means the Secretariat of the Council constituted under section *thirteen*; and

Cap. 287

“ traditional leader ” means a person appointed Chief under the Chiefs Act.

PART II

THE NATIONAL HIV/AIDS /STI /TB COUNCIL

Establishment
of Council

3. There is hereby established the National HIV/AIDS/STI/TB Council which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name, and with power, subject to this Act, to do all such acts and things as a body corporate may by law do or perform.

Functions of
Council

4. (1) The functions of the Council shall be to coordinate and support the development, monitoring and evaluation of the multi-sectoral national response for the prevention and combating of the spread of HIV, AIDS, STI and TB in order to reduce the personal, social and economic impacts of HIV, AIDS, STI and TB.

(2) Without prejudice to the generality of subsection (1) the functions of the Council shall be to—

- (a) support the development and coordination of policies, plans and strategies for the prevention and combating of HIV, AIDS, STI and TB for health and other institutions concerned with the prevention and combating of HIV, AIDS, STI and TB;
- (b) advise the Government, health institutions and other organisations on the policies, strategies and plans to prevent and combat HIV, AIDS, STI and TB;
- (c) ensure the provision and dissemination of information and education on HIV, AIDS, STI and TB;
- (d) develop a national HIV, AIDS, STI and TB research agenda and strategic plan which shall include the quest for a cure for HIV, AIDS as one of the research priorities;
- (e) support programmes relating to prevention, care and treatment of HIV, AIDS, STI and TB;
- (f) mobilise resources to promote and support identified priority interventions including research in areas related to HIV, AIDS, STI and TB;
- (g) provide technical support and guidelines to health and other institutions involved in the—

- (i) prevention and treatment of HIV, AIDS, STI and TB; and
- (ii) care and support of persons infected with or affected by HIV, AIDS, STI and TB;
- (h) collaborate with other research institutions in relation to HIV, AIDS, STI and TB; and
- (i) undertake such other activities as are conducive or incidental to its functions under this Act.

5. (1) The Council shall consist of the following members appointed by the Minister:

Composition
of Council

(a) Permanent Secretaries in the Ministries responsible for—

- (i) community development and social welfare;
- (ii) education;
- (iii) health;
- (iv) sport, youth and child development;

(b) a representative nominated by each of the following organisations or bodies, as the case may be:

- (i) Network of Zambian People Living with HIV and AIDS;
- (ii) Zambia Network of Non-governmental Organisations on HIV and AIDS;
- (iii) Forum for Youth Organisations;
- (iv) religious organisations;
- (v) General Nursing Council;
- (vi) Medical Council of Zambia;

(c) a representative of the Attorney-General;

(d) a representative of the media sector;

(e) a representative of a traditional healers' association; and

(f) two persons from amongst members of the public.

(2) In appointing or nominating persons to the Council the nominating or appointing authority shall take into account the need for gender balance, age and geographical representation on the Council.

(3) The Chairperson shall be appointed by the Minister from amongst the members referred to in subsection (1) and the Vice Chairperson shall be elected by the members from amongst themselves.

Tenure of
office of
members

6. (1) A member referred to in subsection (1) of section five shall hold office for a period of three years from the date of appointment and shall be eligible for reappointment for a further period of three years.

(2) A member referred to in subsection (1) may resign upon giving one month's notice in writing to the organisation which nominated the member and to the Minister.

(3) The office of a member shall become vacant—

(a) upon the death of a member;

(b) if the member is absent without reasonable excuse from three consecutive meetings of the Council of which the member has had notice;

(c) on member ceasing to hold office by virtue of which the member was appointed;

(d) if the member resigns under subsection (2);

(e) if the member is convicted of a criminal offence and sentenced to imprisonment for a period exceeding six months; or

(f) if a member is declared bankrupt.

Filling of
casual
vacancy

7. Whenever the office of a member becomes vacant before the expiry of the term of office, the Minister may appoint another member in place of the member who vacates the office; but that member shall hold office only for the unexpired part of the term.

8. (1) Subject to the other provisions of this Act, the Council may regulate its own procedure.

(2) The Council shall meet for the transaction of business, at least once in every three months at such places and at times as the Chairperson may decide.

(3) Upon giving notice of not less than fourteen days, a meeting of the Council may be called by the Chairperson and shall be called if not less than one third of the members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.

(4) The quorum at any meeting of the Council shall be eight members.

(5) There shall preside at any meeting of the Council—

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson;

or

(c) in the absence of the Chairperson, and Vice-Chairperson, such member as the members present may elect from amongst themselves for the purpose of that meeting.

(6) A decision of the Council on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to that person's deliberative vote.

(7) Where a member referred to in paragraphs (c), (d) and (e) of subsection (1) of section five is for any reasonable cause unable to attend any meeting of the Council, the member may, in writing, nominate another senior officer from the same organisation to attend such meeting and such person shall be deemed to be a member for the purpose of such meeting.

(8) The Council may invite any person whose presence is in its opinion desirable to attend and to participate in the deliberations of a meeting of the Council, but such person shall have no vote.

(9) The validity of any proceedings, act or decision of the Council shall not be affected by any vacancy in the membership of the Council or by any defect in the appointment of any member or by reason that any person not entitled so to do, took part in the proceedings.

(10) The Council shall cause minutes to be kept of the proceedings of every meeting of the Council and every meeting of any committee established by the Council.

Committees
of Council

9. (1) The Council may, for the purpose of performing its functions under this Act establish committees and delegate to any such committee any of its functions as it thinks fit.

(2) The Council may appoint as members of a committee established under subsection (1) persons who are or are not members of the Council and such persons shall hold office for such periods as the Council may determine.

(3) A committee of the Council may invite any person whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the committee, but such person shall have no vote.

(4) Subject to any specific or general direction of the Council, any committee established under subsection (1) may regulate its own procedure.

Allowances
of members

10. The members and members of committees of the Council shall be paid such allowances as the Council may with the approval of the Minister, determine.

Disclosure of
interest

11. (1) If a member or person is present at a meeting of the Council or any committee of the Council at which any matter is the subject of consideration and in which matter the member or person or member's spouse or person's spouse is directly or indirectly interested in a private capacity, the member or person shall, as soon as is practicable after the commencement of the meeting, disclose such interest and shall not unless the Council or committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

12. (1) A person shall not, without the consent in writing given by or on behalf of the Council, publish or disclose to any unauthorised person, other than in the course of duties, the contents of any documents, communication or information whatsoever, which relates to, and which has come to the person's knowledge in the course of that person's duties under this Act.

Prohibition of
publication or
disclosure of
information
to
unauthorised
person

(2) Any person who contravenes the provision of subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three months, or to both.

(3) If any person having any information which to that person's knowledge has been published or disclosed in contravention of subsection (1), unlawfully, publishes or communicates any such information to any other person, that person commits an offence and is liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three months or to both.

PART III SECRETARIAT

13. (1) There is hereby constituted the Secretariat of the Council which shall have the function of implementing Council decisions including the development of technical guidelines for the coordination of the multi sectoral-national response for the—

Constitution
of Secretariat
and definition
of its
functions

(a) prevention of HIV, AIDS, STI and TB and the treatment and care of persons infected with HIV, AIDS, STI and TB; and;

(b) care and support of persons infected with or affected by HIV, AIDS, STI and TB.

(2) Without prejudice to the generality of subsection (1) the Secretariat shall—

(a) ensure accessibility of HIV, AIDS, STI and TB information to the public throughout the country;

(b) assist in the development of guidelines for the screening of blood and blood related products in accordance with international standards in order to prevent the spread of HIV, AIDS, STI and TB;

(c) in consultation with health institutions and other stakeholders, develop guidelines for community based care for combating of HIV, AIDS, STI and TB and develop mechanisms for linkages between community based care and other health care systems.

- (d) in consultation with other institutions and stakeholders involved in the fight against HIV, AIDS, STI and TB, develop strategies for appropriate interventions targeted at the most vulnerable populations;
- (e) develop mechanisms and guidelines to ensure speedy, effective and direct delivery of resources and materials to affected communities and groups;
- (f) develop guidelines for—
 - (i) testing in respect of HIV, AIDS, STI and TB; and
 - (ii) counselling for persons infected with or affected by HIV, AIDS, STI and TB;
- (g) develop a data bank for HIV, AIDS, STI and TB;
- (h) develop guidelines for securing the human rights of persons with HIV and AIDS;
- (i) strengthen the collaboration between traditional health practitioners and conventional practitioners dealing with HIV and AIDS;
- (j) facilitate the formation of support groups to combat the stigmatisation, discrimination and denial in respect of HIV and AIDS;
- (k) perform any other function assigned to it by the Council.

Director-
General,
Secretary and
other staff of
Secretariat

14. (1) Subject to subsection (2), the Council shall, appoint the Director-General of the Council who shall be the Chief Executive Officer of the Council and the Secretariat and who shall, subject to the control and direction of the Council, be responsible for the implementation of the decisions of the Council.

(2) The terms and conditions of service of the Director-General shall be determined by the Council, with the approval of the Minister.

(3) The Director-General shall be the Secretary to the Council.

(4) The Council may appoint on such terms and conditions as it may determine, such other staff of the Secretariat as it considers necessary for the performance of its functions under this Act.

(5) The provisions of section twelve shall apply with necessary modifications to the staff of the Secretariat.

PART IV
FINANCIAL PROVISIONS

10. (1) The funds of the Council shall consist of such moneys
~~in may~~
(a) be appropriated by Parliament for the purposes of the Council;
(b) be paid to the Council by way of fees, levy, grants or donations; or
(c) vest in or accrue to the Council.

Funds for
Council

- (2) The Council may—
(a) accept moneys by way of grants or donations from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia;
(b) raise money, from any source in Zambia and subject to the approval of the Minister, from any source outside Zambia, as it may require for the discharge of its functions; and
(c) charge and collect fees in respect of programmes, seminars and other activities conducted by the Council.
- (3) There shall be paid from the funds of the Council—
(a) such moneys as may be required for the operations of the Council in accordance with its functions under this Act;
(b) salaries; allowances and loans of the staff of the secretariat of the Council;
(c) such reasonable sitting, travelling, transport and subsistence allowances for member and for members of any committee of the Council when engaged in the business of the Council, at such rates as the Council, with the approval of the Minister, may determine; and
(d) any other expenses incurred by the Council in the performance of its functions.

(4) The Council may invest in such manner as it thinks fit such of its funds as it does not immediately require for the performance of its functions.

(5) The Council may establish a National HIV and AIDS Fund for the purpose of—

- (a) encouraging special initiatives in the multi-sectoral approaches for the prevention and combating of HIV, AIDS, STI and TB; and

(b) promoting research and development in HIV, AIDS, STI and TB.

(6) The Minister may, by statutory instrument, regulate the management and administration of the National HIV and AIDS Fund.

Financial
year

16. The financial year of the Council shall be the period of twelve months ending on the 31st of December, in each year.

Accounts

17. (1) The Council shall cause to be kept proper books of account and other records relating to its accounts.

(2) The accounts of the Council shall be audited annually by independent auditors appointed by the Council.

Annual
reports

18. (1) As soon as it is practicable, but not later than six months after the expiry of each financial year, the Council shall submit to the Minister a report concerning its activities during such financial year.

(2) The report referred to in paragraph (1) shall include information on the financial affairs of the Council and there shall be appended thereto—

(a) an audited balance sheet;

(b) an audited statement of income and expenditure;

(c) an audited statement of income and expenditure of the National HIV and AIDS Fund; and

(d) such other information as the Minister may require.

(3) The Minister shall, not later than thirty days after the first sitting of the National Assembly next after receipt of the report referred to in sub-section (1), lay it before the National Assembly.

Regulations

19. The Minister may, by statutory instrument, make regulations for the better carrying out of the purposes of this Act.