

## **Burundi: Law 1/018 of 12 May 2005 on the Legal Protection of People Infected with HIV and of People Suffering from AIDS (2005)**

The full title of the law in French is: *Loi no 1/018 du 12 mai 2005 portant protection juridique des personnes infectées par le virus de l'immunodéficience humaine et des personnes atteintes du syndrome de l'immunodéficience acquise*. The law not only protects the rights of persons living with HIV, but also specifies their 'obligations'.

### *Excerpts*

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**Article 1.** The provisions of the present Law establish rights and obligations for everyone, the healthy and the sick, as well as for public and private institutions that are involved or should be involved in one way or another in the prevention and other actions related to the infection with the Human Immunodeficiency Virus (HIV) and the Acquired Immunodeficiency Syndrome (AIDS).

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**Article 3.** For the purposes of the present Law, "discrimination" refers to any distinction, exclusion, limitation or stigmatisation founded on HIV status or AIDS, which purpose is to impair or alter equality of treatment.

**Article 4.** The fight against AIDS is considered a public good. It covers research activities, AIDS diagnosis, treatment, prevention, voluntary testing, counselling and care, as well as any other measures which purpose is to avoid the spread of AIDS such as HIV/AIDS education.

**Article 5.** The Government shall support counselling and assist activities carried out towards persons who are infected or affected by HIV/AIDS. The particularities of these activities shall be determined by a Decree of the Ministry responsible for the fight against AIDS.

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**Article 9.** Any person aware of his or her HIV positive status shall abstain from engaging in unprotected sex. He or she shall take all necessary precautions to avoid contaminating his or her partner.

...

**Article 11.** HIV testing is practised, especially in the following cases

- (a) in cases of epidemiological precedents, with due respect for the provisions set out in Chapter IV of this present Law;
- (b) in case of a clinical presumption of HIV infection;
- (c) at the person's request;
- (d) at the request of the judicial services;

...

**Article 13.** The result of an HIV test shall be communicated to the patient by the family doctor, or by default, to a member of the health personnel qualified for counselling.

...

**Article 15.** The Ministry responsible for Public Health shall determine by means of Decree, the appropriate measures to ensure an effective prevention both for the health personnel and the public. These measures shall among other things

1. provide guarantees of minimum biosecurity measures to the benefit of the personnel of health institutions and in particular those manipulating biological material of human origin;
2. provide security norms with regards to transfusions of blood, blood components, and blood products;
3. provide security and hygiene norms applicable to persons and institutions involved in skin change, such as hairdressing, cosmetics, pedicure, footcare, acupuncture, tattooing, ear-piercing and others.

**Article 16.** Any person infected with HIV or suffering from AIDS has the right to be consulted by a doctor of his choice and to receive the medical treatments most appropriate to his state. No health agent or health institution may refuse to deliver the care required for a person infected with HIV or suffering from AIDS, in accordance with the distribution of tasks according to health status and medical deontology.

...

**Article 18.** The Government shall mobilise the necessary means for the establishment of appropriate mechanisms to ensure the availability of medication against opportunistic infections and antiretroviral treatment.

**Article 19.** Family members shall participate actively in ensuring that the health of a relative infected with HIV or suffering from AIDS does not deteriorate further, and, if possible, in helping them to return to a regular lifestyle, and, if their relative is in the terminal phase of the disease, in offering them a dignified death.

...

**Article 21.** Informed consent is required for any person involved in clinical HIV/AIDS research.

**Article 22.** The public authorities have the obligation to set up all appropriate mechanisms to fight against all forms of discrimination against persons infected with HIV or suffering from AIDS, in addition to providing them with medical and psychosocial care.

**Article 23.** The national community as a whole shall provide sustained and constant support for the elimination of all forms of discrimination against persons infected with HIV or suffering from AIDS, in addition to the provision of medical and psychosocial care to them.

**Article 24.** HIV testing is voluntary and confidential except in the cases provided for in article 11.

...

**Article 26.** Doctors as well as any other person who has or who could have, through their profession, access to information on a person's HIV status, are obliged to keep this information confidential, or else be subjected to

sanctions provided for in the Penal Code relative to breach of confidentiality.

**Article 27.** The following instances of communicating this information are not considered a breach of confidentiality

1. communicating it to the person infected with HIV, or if this person is not capable, to his legal guardian;
2. communicating it to colleagues and health authorities if this is necessary for the proper administration of medication to the patient
3. communicating it to judicial authorities for the purpose of investigations where such information is necessary.

**Article 28.** Notwithstanding what is said in the provisions of articles 25 and 26 of this present Law, doctors must reveal to the spouse or sexual partner of a person infected with HIV or suffering from AIDS the latter's serostatus, if the latter is psychologically incapable of revealing this information or is opposed to this.

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**Article 30.** Compulsory HIV testing is prohibited in the following cases

- (a) admission or continued stay in a sports or social education centre;
- (b) access to any professional activity or continued stay within this professional activity.

**Article 31.** Despite the possible individual and collective sanitary measures [which may be taken] and the right of any person to obtain a certificate of his health status when he deems it necessary, requesting a compulsory certificate [of a person's HIV/AIDS status] is considered ineffective and discriminatory. This practice is thus prohibited.

**Article 32.** The children of infected persons, whether they themselves are infected or not, may not be denied admission or stay in public or private education centres, nor be the object of discrimination on any given pretext.

**Article 33.** Persons [in custody] may not be subjected to compulsory HIV testing, except in the cases of a criminal investigations.

**Article 34.** Any person infected with HIV or suffering from AIDS who applies for paid employment enjoys the same rights as those who do not have HIV, and may not be deprived of any employment opportunity because of his health status. In particular, the hiring of employees may not be conditioned or linked to HIV test results.

**Article 35.** An employee infected with HIV or suffering from AIDS shall remain employed and enjoy all the advantages recognised by law until he or she is deemed, by a medical commission, physically and/or mentally inept to perform his or her tasks. This ineptitude shall be recorded so that the person who is deemed inept may receive social security benefits provided for by the law.

**Article 36.** Employers shall ensure that the atmosphere at the workplace is such that persons infected with HIV or suffering from AIDS do not feel rejected or humiliated.

**Article 37.** Regulations relative to social or professional benefits to workers shall also be of benefit to workers infected with HIV or suffering from AIDS, whilst respecting the provisions in article 38.

**Article 38.** Persons infected with HIV or suffering from AIDS may subscribe to life insurance from insurance companies. The latter do however have the right to take into account the elements they consider indispensable to provide coverage appropriate to the [higher] risk of death.

**Article 39.** The insurer has the right to know all the elements he or she deems necessary about the health of an applicant to an insurance policy to determine the risk level.

**Article 40.** Insurance companies shall respect the confidentiality of their findings in addition to any other medical and personnel information mentioned by an applicant during the determination of the risk level.

**Article 41.** In addition to the relevant provisions of the Criminal Code, any violation of this present Law is punishable by a fine of 10,000 to 100,000 Burundi Francs.

**Article 42.** Any person who wilfully transmits HIV by any means will be prosecuted for attempted murder and is punishable according to the provisions of criminal law.