



## NOTICE OF SERVICES AVAILABLE TO VICTIM

*Section 28(3) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)*

***(The member to whom the alleged commission of a sexual offence is reported, must hand this form to the victim of the alleged offence or an interested person)***

The purpose of this Form is to provide the victim of the alleged sexual offence with information, and in particular with the details of the available services regarding the receiving of Post Exposure Prophylaxis (PEP) for possible HIV infection and for the testing of the alleged sex offender for HIV.

### **Note:**

*In terms of section 27 of the Act, an "interested person" is any person who has a material interest in the well-being of a victim, including a spouse; same sex or heterosexual permanent life partner; parent; guardian; family member; care giver; curator; counsellor; medical practitioner; health service provider; social worker; or teacher of the victim. An interested person may apply on behalf of the victim for the services referred to in this Form.*

### **What is HIV infection?**

HIV refers to infection with the human immuno-deficiency virus. HIV destroys important cells that control and support the immune system. As a result, the body's natural built-in defence mechanisms are weakened and find it difficult to offer resistance against illnesses. Most people infected with HIV ultimately develop AIDS and die as their bodies can no longer offer any resistance to illnesses such as TB, pneumonia and meningitis. Infection with HIV therefore has serious consequences for you as an individual. There is currently no cure for HIV/AIDS.

### **How is HIV transmitted?**

HIV is transmitted in three different ways:

- through sexual intercourse;
- during a blood transfusion when HIV infected blood is passed directly into the body; and
- by a mother to a fetus during pregnancy, childbirth or whilst breast feeding.

### **Can I be exposed to HIV during a sexual offence?**

Yes, if you come into contact with the blood, semen or vaginal fluid of the offender. For example, if you were vaginally or anally raped and the semen of the offender entered your body, you would have been exposed to HIV.

### **What is PEP?**

PEP (Post Exposure Prophylaxis) refers to antiretroviral medication administered to reduce the risk of a person contracting HIV after a known exposure to the virus. The treatment usually involves the administering of a group of drugs (or certain medication on its own) which act against HIV. It is important that PEP be administered to you as soon as possible after the sexual offence was committed, but in any event within 72 hours after the alleged sexual offence has been committed. A public health establishment designated by the Minister of Health may administer the medication and this will be done free of charge. A list of public health establishments within a reasonable distance from the police station where the complaint was laid and where this treatment may be obtained, is attached to this notice. You will be able to obtain free medical advice from the health establishment in respect of the administering of PEP before it is administered. You must consent

to the administering of PEP.

### **Can I expose other people to the risk of HIV infection as a result of my possible exposure to HIV?**

You cannot transmit HIV through daily contact with other people, such as hugging, shaking hands, and sharing food, water or utensils. However, since HIV may be transmitted through sexual intercourse, you may have become infected through the alleged sexual offence and may, as a result, infect your sexual partner. You should therefore practice safe sex until you are certain that you have not been infected. If you are pregnant, you may transmit HIV to your unborn child. If you are breast feeding, you may also expose your child to the risk of HIV infection. ***You must obtain expert advice (as set out at the end of this Notice) to deal with the implications of the risk of infection for yourself, your sexual partner and others.***

### **What about other sexually transmitted infections?**

During the commission of a sexual offence, the victim may also be exposed to other sexually transmitted infections (STI's). All other STI's can be treated effectively without serious consequences to the health of the victim. You will be able to obtain free medical advice from the health establishment in respect of STI's, the symptoms to look out for and what to do if you suspect that you may have contracted such an infection.

### **How do I deal with my possible exposure to HIV during the alleged sexual offence?**

You can apply to a magistrate to have the alleged offender tested for HIV, and the results of his or her tests will be disclosed to you. If you know the HIV status of the alleged sex offender, it may give you peace of mind and place you in a better position to make decisions on whether you should take medication to prevent or reduce the risk of HIV transmission and what you can do to protect your sexual partner and others against HIV infection. *Expert medical advice may be necessary for you to deal with the implications of the risk of infection for yourself, your sexual partner and others. The test result from a compulsory HIV test may not be reliable, because the alleged offender may be in the window period while he or she is tested for HIV. This means that the test result may indicate that the alleged offender tested negative although he or she is, in fact, HIV positive. You must therefore talk to an expert before you make any medical or lifestyle decision based on the test result. Furthermore, please take into account that an HIV positive test result does not mean that the virus was necessarily transmitted to you during the commission of the sexual offence.*

***It is in your own best interest to be tested for HIV when you feel ready to do so. In the meantime, make sure that you practice safe sex.***

### **How do I apply for HIV testing of the alleged sex offender?**

- You must report the commission of the sexual offence to the police station nearest to where the offence was committed. The Police will investigate the matter.
- You may immediately thereafter apply for the HIV testing of the alleged sex offender, or inform the investigating officer that you wish to apply for the HIV testing of the alleged offender.
- An application form can be obtained from the police station. You must complete the application form to apply for an order to have the alleged offender tested.
- Once you have completed and signed the application form, you may hand it to the investigating official.

### **Who will consider my application?**

The investigating officer who is responsible to investigate the alleged sexual offence, will submit your completed application to a magistrate. The magistrate will consider the application during court hours in his or her office. The magistrate may request further evidence, orally or by affidavit and may also question the alleged offender before taking a decision. The investigating officer will inform you of the outcome of your application.

### **What will happen once the magistrate has ordered that the alleged offender be tested for HIV?**

The investigating officer will ensure that two blood samples of the alleged offender are taken at the same time and are tested for HIV.

**Who will pay for the HIV testing?**

The State. It will not cost you any money.

**How will I be informed about the HIV test result?**

Once the results become available, the investigating officer will as soon as possible ensure that you receive a sealed envelope containing the HIV test result, as well as information on where you can obtain assistance in dealing with the results and the implications thereof.

**May I disclose the HIV status of the alleged offender to other people?**

The HIV test results may only be disclosed to the victim or the interested person who initiated the application for the compulsory HIV testing of the alleged offender, the alleged offender, the investigating officer and the prosecutor, where applicable, or any other person who needs to know the test results for purposes of any civil proceedings or an order of the court.

**For what period may I apply for the HIV testing of the alleged sex offender?**

You must apply within 90 days after the alleged sexual offence was committed. The 90 day period is called a window period, which means that if the test is conducted thereafter, it will not be reliable since, if the test is positive, the alleged offender could have contracted the virus after the alleged offence had been committed. Remember that, even if the test was conducted during the 90 days, a negative test result may not be reliable since the alleged offender may be in the window period and test negative although he or she is in fact HIV positive. It is therefore advised that, if you decide to apply to have the alleged offender tested for HIV, you do so as soon as possible after the alleged commission of the sexual offence. However, it remains in your best interest to have yourself tested for HIV.

**Are there any service organizations which can provide counseling and support?**

There are a number of private and public facilities that will assist you to deal with the implications of the HIV test results. Some of these services are free of charge, while others may require the payment of a fee. These include:

- Private medical and social facilities (eg a general medical practitioner or psychologist);
- Public medical and social facilities, including —
  - Life Line
  - Child Line
  - Child protection organizations
  - Local State Hospitals and Clinics
  - Rape Crisis
  - FAMSA
  - Departments of Social Welfare
  - Local AIDS Service Organizations

Contact details of these service providers are available in the telephone directory and from the investigating officer.