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AIDS Law Project Welcomes Fair and Non-Discriminatory Policy on HIV Testing, Employment and Deployment in the SANDF

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The AIDS Law Project (ALP) welcomes the long awaited approval of the revised health classification policy of the South African National Defence Force (SANDF) which was announced by Cabinet on Wednesday 4th November.

The new policy is a culmination of a legal challenge, in which the ALP acted for various people with HIV as well as for the South African Security Forces Union (SASFU), that was drawn out over 15 years. From 1994, we have challenged the constitutionality of HIV testing policies that were being unfairly used to exclude people with HIV from recruitment to, promotion or foreign deployment in the SANDF.

The ALP regrets the fact that its clients had to resort to courts to protect their constitutional rights and that government, which is constitutionally obliged to protect and enforce the Constitution, has been one of the last employers to amend its unconstitutional policies.

The ALP has not yet seen the final version of the policy that was approved by Cabinet. But we are confident in our and belief that it is substantially the same document the ALP and SASFU endorsed on 16 September 2009.

Cabinet?s endorsement of a fair and reasonable policy in employment and deployment of people with HIV in the SANDF represents a major victory for our Constitution and the rule of law in South Africa. It marks a turning point in the history of the country and is a world first. We hope it will be a model for military employment all over the world. From now on individuals who have the necessary skills and abilities to serve our nation, who were banned from doing so in the past solely on the basis of their HIV status, will now be afforded such an opportunity without any form of hindrance.

The ALP calls on the SANDF and cabinet to publish the new policy and to ensure that it is promptly communicated to commanding officers, officials and soldiers on the ground, to avoid mixed and confusing messages. The ALP also hopes that the policy will be applied in a consistent and fair manner and that military doctors will make a sincere effort to study and understand the policy as they are central to its implementation.

Finally, the announcement by Cabinet confirms the ANC government?s commitment to eradicate prejudice against those who live with HIV in our society. The Cabinet?s statement acknowledges that the existing stigma and discrimination directed against aspirant and serving members of our military should come to an end forthwith. For this to materialise it requires a firm commitment to implement the policy on the part of the senior leadership of the SANDF.

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