



# Health and Medicines Act 1988

## 1988 CHAPTER 49

### *HIV testing kits and services*

#### **23 HIV testing kits and services**

- (1) The Secretary of State may provide by regulations that a person—
  - (a) who sells or supplies to another an HIV testing kit or any component part of such a kit;
  - (b) who provides another with HIV testing services; or
  - (c) who advertises such kits or component parts or such services,shall be guilty of an offence.
- (2) The power to make regulations conferred by this section shall be exercisable by statutory instrument, and a statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) The power may be exercised—
  - (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and
  - (b) so as to make, as respects the cases in relation to which it is exercised—
    - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
    - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case, or different provision as respects the same case or class of case for different purposes;
    - (iii) any such provision either unconditionally, or subject to any specified condition,and includes power to make such incidental or supplemental provision as the Secretary of State considers appropriate.
- (4) If any person contravenes regulations under this section, he shall be liable—
  - (a) on summary conviction to a fine not exceeding the statutory maximum; and

- (b) on conviction on indictment to a fine or to imprisonment for a term of not more than two years, or to both.
- (5) Where an offence under this section which is committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (6) In this section—
- “HIV” means Human Immunodeficiency Virus of any type;
  - “HIV testing kit” means a diagnostic kit the purpose of which is to detect the presence of HIV or HIV antibodies; and
  - “HIV testing services” means diagnostic services the purpose of which is to detect the presence of HIV or HIV antibodies in identifiable individuals.