

## **MEDICAL TERMINATION OF PREGNANCY ACT, 1971**

**34 of 1971**

**[10th August, 1971]**

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STATEMENT OF OBJECTS AND REASONS The provisions regarding the termination of pregnancy in the Indian Penal Code which were enacted about a century ago were drawn up in keeping with the then British Law on the subject. Abortion was made a crime for which the mother as well as the abortionist could be punished except where it had to be induced in order to save the life of the mother. It has been stated that this very strict law has been observed in the breach in a very large number of cases all over the country. Furthermore, most of these mothers are married women, and are under no particular necessity to conceal their pregnancy. 2. In recent years, when health services have expanded and hospitals are availed of to the fullest extent by all classes of society, doctors have often been confronted with gravely ill or dying pregnant women whose pregnant uterus have been tampered with, a view to causing an abortion and consequently suffered very severely. 3. there is thus avoidable wastage of the mother's health, strength and, sometimes, life. The proposed measure which seeks to liberalise certain existing provisions relating to termination of

pregnancy has been conceived (1) as a health measure - when there is danger to the life or risk to physical or mental health of the woman; (2) on humanitarian grounds - such as when pregnancy arises from a sex crime like rape or intercourse with a lunatic woman, etc.; and (3) eugenic grounds - Where there is substantial risk that the child, if born, would suffer from deformities and diseases.-Gaz. of Ind., 17-11-1969, Pt. II, section 2, Ext., p. 880.

### **1. Short title, extent and commencement :-**

(1) This Act may be called the Medical Termination of Pregnancy Act, 1971.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

1. Act came into force on 1 -4-1972-See G.S.R. 285 dt. 19-2-1972-Gaz. of Ind., 1 1-3-1972, Pt. II, section 3(i), p. 708.

### **2. Definitions :-**

In this Act, unless the context otherwise requires,-

(a) "guardian" means a person having the care of the person of a minor or a <sup>1</sup>["mentally ill person"];

(b)<sup>2</sup> "mentally ill person" means a person who is in need of treatment by reason of any mental disorder other than mental retardation;

(c) "minor" means a person who, under the provisions of the Indian Majority Act, 1875, is to be deemed not to have attained his majority;

(d) "registered medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of Section 2 of the Indian Medical Council Act, 1956 , whose name has been entered in a State Medical Register and who has such experience or training in gynaecology and obstetrics as may be prescribed by rules made under this Act.

1. In section 2, in clause (a) the words "lunatic" shall be substituted by Medical Termination of Pregnancy (Amendment) Act, 2002. (64 of 2002), published in the Gazette of India, Extra.. Part 11. Section 1, dated 19th December, 2002, pp. 1-2, No. 76.

2. In section 2, clause (b) shall be substituted by Medical

Termination of Pregnancy (Amendment) Act, 2002. (64 of 2002), published in the Gazette of India, Extra.. Part 11. Section 1, dated 19th December, 2002, pp. 1-2, No. 76.

### **3. When pregnancies may be terminated by registered medical practitioners :-**

(1) Notwithstanding anything contained in the Indian Penal Code, a registered medical practitioner shall not be guilty of any offence under that Code or under any other law for the time being in force, if any pregnancy is terminated by him in accordance with the provisions of this Act.

(2) Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner,-

(a) where the length of the pregnancy does not exceed twelve weeks, if such medical practitioner is, or

(b) where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks, if not less than two registered medical practitioners are,

(i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or

(ii) there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.

(3) In determining whether the continuance of a pregnancy would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

(4)

(a) No pregnancy of a woman, who has not attained the age of eighteen years, or, who, having attained the age of eighteen years, is a <sup>1</sup> ["mentally ill person"] , shall be terminated except with the consent in writing of her guardian.

(b) Save as otherwise provided in clause (a), no pregnancy shall be terminated except with the consent of the pregnant woman.

1. Section 3, sub section (4), in clause (a) the words "lunatic" shall be substituted by Medical Termination of Pregnancy (Amendment)

Act, 2002. (64 of 2002), published in the Gazette of India, Extra.. Part 11. Section 1, dated 19th December, 2002, pp. 1-2, No. 76.

**4. Place where pregnancy may be terminated. :-**

**1** No termination of pregnancy shall be made in accordance with this Act at any place other than

(a) a hospital established or maintained by Government, or

(b) a place for the time being approved for the purpose of this Act by Government or a District Level Committee constituted by that Government with the Chief Medical Officer or District Health Officer as the Chairperson of the said Committee :

Provided that the District Level Committee shall consist of not less than three and not more than five members including the Chairperson, as the Government may specify from time to time.

1. Section 4, shall be substituted by Medical Termination of Pregnancy (Amendment) Act, 2002. (64 of 2002), published in the Gazette of India, Extra.. Part 11. Section 1, dated 19th December, 2002, pp. 1-2, No. 76.

**5. Sections 3 and 4 when not to apply :-**

(1) The provisions of section 4 , and so much of the provisions of sub-section (2) of Section 3 as relate to the length of the pregnancy and the opinion of not less than two registered medical practitioners, shall not apply to the termination of a pregnancy by a registered medical practitioner in a case where he is of opinion, formed in good faith, that the termination of such pregnancy is immediately necessary to save the life of the pregnant woman.

**1**(2) Notwithstanding anything contained in the Indian Penal Code, 1860 (45 of 1860), the termination of pregnancy by a person who is not a registered medical practitioner shall be an offence punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years under that Code, and that Code shall, to this extent, stand modified.

**1**(3) Whoever terminates any pregnancy in a place other than that mentioned in Section 4, shall be punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years.

**1** (4) Any person being owner of a place which is not approved under clause (b) of Section 4 shall be punishable with rigorous

imprisonment for a term which shall not be less than two years but which may extend to seven years.

Explanation 1. For the purposes of this section, the expression "owner" in relation to a place means any person who is the administrative head or otherwise responsible for the working or maintenance of a hospital or place, by whatever name called, where the pregnancy may be terminated under this Act.

Explanation 2. For the purposes of this section, so much of the provisions of clause (d) of Section 2 as relate to the possession, by registered medical practitioner, of experience or training in gynaecology and obstetrics shall not apply.

1. In Section 5, sub section 2,3 and 4, shall be substituted by Medical Termination of Pregnancy (Amendment) Act, 2002. (64 of 2002), published in the Gazette of India, Extra.. Part 11. Section 1, dated 19th December, 2002, pp. 1-2, No. 76.

## **6. Power to make rules :-**

(1) The Central Government may, by notification in the Official Gazette, make rules <sup>1</sup> to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

(a) the experience or training, or both, which a registered medical practitioner shall have if he intends to terminate any pregnancy under this Act; and

(b) such other matters as are required to be or may be, provided by rules made under this Act.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which maybe comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or .the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that

rule.

1. For Medical Termination of Pregnancy Rules, 1972-See G.S.R. 286 dtd. 19-2-1972-Gaz. of India, 11-3-1972, Pt. II, S.3(i), p. 708.

**7. Power to make regulations a :-**

(1) The State Government may, by regulations,-

(a) require any such opinion as is referred to in sub-section (2) of Section 3 to be certified by a registered medical practitioner or practitioners concerned, in such form and at such time as may be specified in such regulations, and the preservation or disposal of such certificates;

(b) require any registered medical practitioner, who terminates a pregnancy, to give intimation of such termination and such other information relating to the termination as may be specified in such regulations;

(c) prohibit the disclosure, except to such persons and for such purposes as may be specified in such regulations, of intimations given or information furnished in pursuance of such regulations.

(2) The intimation given and the information furnished in pursuance of regulations made by virtue of clause (b) of sub-section (1) shall be given or furnished, as the case may be, to the Chief Medical Officer of the State.

(3) Any person who wilfully contravenes or wilfully fails to comply with the requirements of any regulation made under sub-section (1) shall be liable to be punished with fine which may extend to one thousand rupees.

**8. Protection of action taken in good faith :-**

No suit or other legal proceeding shall lie against any registered medical practitioner for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.