

**The
Medical Termination of
Pregnancy Act, 1971
(34 of 1971)**

alongwith
The Medical Termination of Pregnancy Rules, 2003
The Medical Termination of Pregnancy
Regulations, 2003
with
Short Comments

BARE ACT

With Short Comments

ORIGINAL: PROFESSIONAL BOOK PUBLISHERS.

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MEDICAL TERMINATION OF PREGNANCY ACT, 1971

Provided that the registered medical practitioner on the application of an employed woman whose pregnancy has been terminated, grant a certificate for the purpose of enabling her to obtain leave from her employer ;

Provided further that any such employer shall not disclose this information to any other person.

7. Entries in registers maintained in hospital or approved place, - No entry shall be made in any case-sheet, operation theater register, follow-up card or any other document or register other than the admission Register maintained at any hospital or approved place indicating therein the name of the pregnant woman and reference to the pregnant woman shall be made therein by the serial number assigned to the woman in the Admission Register.

FORM I
[See Regulation 3]

I.....
(Name and qualifications of the Registered Medical practitioner in block letters)
.....
(Full address of the Registered Medical practitioner)

I.....
(Name and qualifications of the Registered Medical practitioner in block letters)
.....
(Full address of the Registered Medical practitioner) hereby certify that *I/We am/are of opinion, formed in good faith, that it is necessary to terminate the pregnancy of
.....
(Full name of pregnant women in block letters) resident of
.....
(Full address of pregnant women in block letters) for the reasons given below**.

* I/We hereby give intimation that *I/We terminated the pregnancy of the woman referred to above who bears the serial no.in the Admission Register of the hospital/approved place.

Place :..... Signature of the registered Medical Practitioner
Date :..... Signature of the registered Medical Practitioners

- *Strike out whichever is not applicable,
- **of the reasons specified items (i) to (v) write the one which is appropriate.
- (i) in order to save the life of the pregnant women,
- (ii) in order to prevent grave injury to the physical and mental health of the pregnant women,
- (iii) in view of the substantial risk that if the child was born it would suffer from such physical or mental abnormalities as to be seriously handicapped,
- (iv) as the pregnancy is alleged by pregnant women to have been caused by rape,
- (v) as the pregnancy has occurred as result of failure of any contraceptive device or methods used by married woman or her husband for the purpose of limiting the number of children

Note : Account may be taken of the pregnant women's actual or reasonably foreseeable environment in determining whether the continuance of her pregnancy would involve a grave injury to her physical or mental health.

Place :.....
Date :..... Signature of the registered Medical Practitioner / Practitioners

FORM II
[See Regulation 4(5)]

1. Name of the State

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List of Amending Acts

1. Medical Termination of Pregnancy (Amendment) Act, 2002 (64 of 2002)
2. Delegated Legislation Provisions (Amendment) Act, 2004 (4 of 2005)

registered medical practitioner or practitioners by whom the pregnancy was terminated and such envelope shall be marked "SECRET".

(3) Every envelope referred to in sub-regulation (2) shall be sent immediately after the termination of the pregnancy to the head of the hospital or owner of the approved place where the pregnancy was terminated.

(4) On receipt of the envelope referred to in sub-regulation (3), the head of the hospital or owner of the approved place shall arrange to keep the same in safe custody.

(5) Every head of the hospital or owner of the approved place shall send to the Chief Medical Officer of the State, IN form II a monthly statement of cases where medical termination of pregnancy has been done.

(6) On every envelope referred to in sub-regulation (1), pertaining to the termination of pregnancy under section 5, there shall be noted the name and address of the registered medical practitioner by whom the pregnancy was terminated and the date on which the pregnancy was terminated and such envelope shall be marked "SECRET".

Explanation. -The columns pertaining to the hospital or approved place and the serial number assigned to the pregnant woman in the Admission Register shall be left blank in Form I in the case of termination performed under section 5.

(7) Where the Pregnancy is not terminated in an approved place or hospital, every envelope referred to in sub-regulation (6) shall be sent by registered post to the Chief Medical Officer of the State on the same day on which the pregnancy was terminated or on the working day next following the day on which the pregnancy was terminated :

Provided that where the pregnancy is terminated in an approved place or hospital, the procedure provided in sub-regulations (1) to (6) shall be followed.

5. Maintenance of Admission Register, - (1) Every head of the hospital or owner of the approved place shall maintain a register in form III for recording there in the details of the admissions of women for the termination of their pregnancies and keep such register for a period of five years from the end of the calendar year it relates to.

(2) The entries in the Admission Register shall be made serially and a fresh serial shall be started at the commencement of each calendar year and the serial number of the particular year shall be distinguished from the serial number of other years by mentioning the year against the serial number, for example, serial number 5 of 1972 and serial number 5 of 1973 shall be mentioned as 5/1972 and 5/1973.

(3) Admission Register shall be a secret document and the information contained therein as to the name and other particulars of the pregnant woman shall not be disclosed to any person.

6. Admission Register not to be open to inspection, - The Admission Register shall be kept in the safe custody of the head of the hospital or owner of the approved place, or by any person authorized by such head or owner and save as otherwise provided in sub-regulation (5) of regulation 4 shall not be open for inspection by any person except under the authority of law :-

THE MEDICAL TERMINATION OF PREGNANCY REGULATIONS, 2003

In exercise of the power conferred by section 7 of the Medical Termination of Pregnancy Act, 1971 (34 of 1971), the Central Government hereby makes the following regulations, namely:-

1. Short title, extent and commencement - (1) These regulations may be called the Medical Termination of Pregnancy Regulations, 2003.

(2) They extend to all the Union territories.

(3) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions - In these regulations, unless the context otherwise requires,

(a) "Act" means the Medical Termination of Pregnancy Act, 1971 (34 of 1971)

(b) "Admission Register" means the register maintained under regulation 5;

(c) Chief Medical Officer of the District means the Chief Medical Officer of the District by whatever name called.

(d) "Form" means a form appended to these regulations;

(e) "hospital" means a hospital established or maintained by the Central Government or the Government of Union territory ;

(f) "section" means a section of the Act.

3. Form of certifying opinion or opinions, - (1) Where one registered medical practitioner forms or not less than two registered medical practitioners form such opinion as is referred to in sub section (2) of section 3 or 5, he or she shall certify such opinion in Form I.

(2) Every registered medical practitioner who terminates any pregnancy shall, within three hours from the termination of the pregnancy certify such termination in Form I.

4. Custody of forms, - (1) The consent given by a pregnant woman for the termination of her pregnancy, together with the certified opinion recorded under section 3 or section 5, as the case may be and the intimation of termination of pregnancy shall be placed in an envelope which shall be sealed by the registered medical practitioner or practitioners by whom such termination of pregnancy was performed and until that envelope is sent to the head of the hospital or owner of the approved place or the Chief Medical Officer of the State, it shall be kept in the safe custody of the concerned registered medical practitioner or practitioners, as the case may be.

(2) On every envelope referred to in sub-regulation (1), pertaining to the termination of pregnancy under section 3, there shall be noted the serial number assigned to the pregnant woman in the Admission Register and the name of the

1. Vide G.S.R 486 (E), dated 13-6-2003, published in the Gazette of India, Ext., Pt. II, S. 3 (i) dated 13-6-2003

THE MEDICAL TERMINATION OF PREGNANCY AMENDMENT ACT, 2002

(No. 64 of 2002)

(18th December, 2002)

An Act to amend the Medical Termination of Pregnancy Act, 1971.
Be it enacted by Parliament in the Fifty-third Year of the Republic of India as follows :-

1. Short Title and Commencement:- (1) This Act may be called the Medical Termination of Pregnancy (Amendment) Act, 2002.

(2) It shall come into force on such date* as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of Section – 2:- In section 2 of the Medical Termination of Pregnancy Act, -34 of 1971, (hereinafter referred to as the principal Act), —

(i) In clause (a), for the word "lunatic", the words "mentally ill person" shall be substituted.

(ii) For clause (b), the following clause shall be substituted, namely :-

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

3. Amendment of Section – 3:- In section 3 of the principal Act, in sub-section (4), in clause (a), for the word "lunatic", the words "mentally ill person" shall be substituted.

4. Substitution of new Section for section. 4:- For section 4 of the principal Act, the following section shall be substituted, namely :-

"4. 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."

5. Amendment of Section 5:- In section 5 of the principal Act, for sub-section (2) and the Explanation thereto, the following shall be substituted, namely:-

"(2) Notwithstanding anything contained in the Indian Penal Code, 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.

(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.

(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".

* Brought into force on 18-6-2003 vide S.O. 704(E), dated 18-6-2003.

**THE MEDICAL TERMINATION OF PREGNANCY
ACT, 1971
(ACT NO. 34 OF 1971)**

[10th August, 1971]

An Act to provide for the termination of certain pregnancies by registered medical practitioners and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows :-

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, 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 women, (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.

Amendment 64 of 2002 – Statement of Objects and Reasons. – The Medical Termination of Pregnancy Act, 1971 legalised termination of pregnancy on various socio-medical grounds. This Act is aimed at eliminating abortion by untrained persons and in unhygienic conditions, thus reducing maternal morbidity and mortality.

2. In 1997, an expert group was constituted to review the aforesaid Act with a view to making it more relevant to the present environment. The National Commission for Women also suggested certain amendments in the Act to remove provisions which were discriminatory to women. Taking into consideration the suggestions of the National Commission for Women and experience gained in the implementation of this Act, the expert group recommended certain amendments to the Act.

3. Accordingly, the Medical Termination of Pregnancy (Amendment) Bill, 2002 provides for –

- (i) substituting the word “lunatic” by the words “mentally ill person”;
- (ii) amending section 4 with a view to delegating powers to the Government to approve places for medical termination of pregnancy and constituting District Level Committees to be headed by the Chief Medical Officer/ District Health Officer;
- (iii) amending section 5 so as to prescribe punishment of rigorous imprisonment of not less than two years and extending up to seven years –
 - (a) to clinics which are not authorised to conduct abortions; and
 - (b) to persons who are not registered medical practitioners with requisite experience or training for terminating pregnancy.

MEDICAL TERMINATION OF PREGNANCY RULE, 2003

FORM C
(See rule 9)

I.....daughter / wife of.....aged about
.....years of.....
(Here state the permanent address)

At present residing at.....

Do hereby give my consent to termination of my pregnancy at.....

(State the name of place where the pregnancy is to be terminated)

Place.....

Date.....

Signature

(To be filled in by guardian where the woman is a mentally ill person or minor)

I.....son / daughter / wife of.....aged about
.....years of.....at present residing
at (permanent address)do hereby

Give my consent to the termination of the pregnancy of my ward.....who is a
Minor / lunatic at.....

(Place of termination of my pregnancy)

Place.....

Date.....

Signature

Provided that the Government may condone any delay in case it is satisfied that applicant was prevented by sufficient cause to make application within time.

(2) The Government may, after giving the owner an opportunity of being heard, confirm, modify or reverse the order.

9. Form of consent.- The consent referred to in sub-section (4) of section 3 shall be given in Form C.

10. Repeal and saving.- The Medical Termination of Pregnancy Rules, 1975, are hereby repealed except as respects things done or omitted to be done before such repeal.

FORM A
(See sub-rule (2) rule 5)
FORM OF APPLICATION FOR THE APPROVAL OF A PLACE UNDER
CLAUSE (b) OF SECTION 4

Category of approved place:

- A Pregnancy can be terminated upto 12 week
- B Pregnancy can be terminated upto 20 weeks

1. Name of the place (in capital letters)
2. Address in full
3. Non-Government/Private/Nursing Home/Other Institutions
4. State, if the following facilities are available at the place.

Category A

- (i) Gynaecological examination/labour table
- (ii) Resuscitation equipment
- (iii) Sterilization equipment
- (iv) Facilities for treatment of shock, including emergency drugs.
- (v) Facilities for transportation, if required.

Category B

- (ii) An operation table and instruments for performing abdominal or gynaecological surgery.
- (iii) Drugs and parental fluid in sufficient for emergency cases.
- (iv) Anaesthetic equipment, resuscitation equipment and sterilisation equipment.

Place.....

Date.....

Signature of the owner of the place

FORM B
(See sub-rule (6) of rule 5)
CERTIFICATE OF APPROVAL

The place described below is hereby approved for the purpose of the Medical Termination of Pregnancy Act, 1971 (34 of 1971).

As read within upto..... weeks

Name of the place

Address and other descriptions

Name of the owner

Place.....

Date.....

To the Government of the

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 as the Central Government may, by notification in the Official Gazette, appoint.

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 lunatic;

(b) “lunatic” has the meaning assigned to it in Sec.3 of the Indian Lunacy Act, 1912 (4 of 1912) ;

(c) “minor” means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875), is to be deemed not to have attained his majority,

(d) “registered medical practitioner” means a medical practitioner who possesses any recognized medical qualification as defined in Cl.(h) of Sec. 2 of the Indian Medical Council Act, 1956 (102 of 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.

3. When Pregnancies may be terminated by registered medical practitioners. –

(1) Notwithstanding anything contained in the Indian Penal Code (45 of 1860), 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 of opinion, formed in good faith, that, -

(i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury 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.

Explanation I. – Where any, pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

1. Brought into force on 1-4-1972

2. Substitute by Act 64 of 2002, S, 2, for “lunatic” (w.e.f. 18-6-2003)

3. Substitute by Act 64 of 2002, S, 2, for CI (b) (w.e.f. 18-6-2003). Prior to its substitution, CI. (b) read as under:-

“(b) ‘lunatic’ has the meaning assigned to it in section 3 of the Indian Lunacy Act, 1912;”

Explanation II. – Where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

(3) In determining whether the continuance of 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 reasonable 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 lunatic, 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.

COMMENTS

The provisions of the Act do not confer or recognise any right on any person to cause an abortion or termination of pregnancy. Even the pregnant women cannot terminate the pregnancy except under the circumstance set out in the Act. Even during the first trimester, the women cannot abort at her will and pleasure. There is no question of abortion “on demand”, S. 3 is only an enabling provision to save the registered medical practitioner from the purview of the Indian Penal Code. Termination of pregnancy under the provisions of the Act, is not the rule and it is only an exception: *V. Krishnan v. G. Rajan alias Madipu Rajan* (1994-1) 113 Mad.L.W. 89 (D.B.) practitioner is formed in good faith: *V. Krishnan v. G Raja alias Madipu Raja* (1994-1) 113 Mad.L.W. 89 (D.B.).

Under S. 3(2), there can be no termination of pregnancy if the length of the pregnancy had exceeded twenty weeks. The only exception thereto is found in S. 5, under which the pregnancy can be terminated immediately to save the life of the pregnant woman at any stage of the pregnancy, if the opinion of the medical

The entire scheme of the Act shows that the provisions thereof can be invoked only by the pregnant woman. If she happens to be a minor, the registered medical practitioner, who is approached for terminating the pregnancy, must take care to get the consent of the guardian of the minor in writing. Sub-S. (4)(a) can never be understood as dispensing with the consent of the pregnant woman if she is below 18 years of age: *V. Krishnan v. G. Rajan alias Madipu Rajan* (1994-1) 113 Mad.L.W.89 (D.B.).

Explanation I provides only for a presumption. No doubt the Court is bound to presume, as the expression used is “shall be presumed”. But, such presumption can be rebutted on the facts. Even if it is assumed that the pregnant is caused by rape, there is no question of anguish caused by such pregnancy in the pregnant woman particularly when the girl was very keen on continuing the pregnancy and bearing the child. Hence, the continuance of the pregnancy will not casue any injury to her mental health: *V. Krishnan v. G. Rajan alias Madipu Rajan* (1994-1) 113 Mad.L.W. 89 (D.B.).

5[4. Place where pregnancy may be terminated. – 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

4. Substituted by Act 64 of 2002, S 3, for “lunatic” (w.e.f 18-6-2003).
5. Substituted by Act 64 of 2002, S 4, for S. 4 “lunatic” (w.e.f 18-6-2003). Prior to its substitution, S 4 read as under:-
“4. Place where pregnancy may be terminated.- 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.”

(5) The Chief Medical Officer of the District may, if he is satisfied after such verification, enquiry or inspection, as may be considered necessary, that termination of pregnancies may be done under safe and hygienic conditions, at the place, recommend the approval of such place to the committee.

(6) The committee may after considering the application and the recommendations of the Chief Medical Officer of the District approve such place and issue a certificate of approval in Form B.

(7) The certificate of approval issued by the committee shall be conspicuously displayed at the place to be easily visible to persons visiting the place.

(8) The place shall be inspected within 2 months of receiving the application and certificate of approval may be issued within the next 2 months, or in case any deficiency has been noted, within 2 months of the deficiency having been rectified by the applicant.

(9) On the commencement of these rules, a place approved in accordance with the Medical Termination of Pregnancy Rules, 1975 shall be deemed to have been approved under these rules.

6. Inspection of a place- (1) A place approved under rule 5 may be inspected by the Chief Medical Officer of the District, as often as may be necessary with a view to verify whether termination of pregnancies is being done therein under safe and hygienic conditions.

(2) If the Chief Medical Officer has reason to believe that there has been death of, or injury to, a pregnant woman at the place or that termination of pregnancies is not being done at the place under safe and hygienic conditions, he may call for any information or may seize any article, medicine, ampoule, admission register or other document, maintained, kept or found at the place.

(3) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to seizure, so far as it may, apply to seizure made under sub-rule (2).

7. Cancellation or suspension of certificate of approval- (1) If, after inspection of any place approved under rule 5, the Medical Officer of the maintained therein and the termination of pregnancy at such place cannot be made under safe and hygienic conditions, he shall make a report of the fact to the committee giving the detail of the deficiencies or defects found at the place and the committee may, if it is satisfied, suspend or cancel the approval provided that the committee shall give an opportunity of making representation to the owner of the place before the certificate issued under rule 5 is cancelled.

(2) Where a certificate issued under rule 5 is cancelled, the owner of the place may make such additions or improvements in the place and thereafter, he may make an application to the committee for grant of approval under rule 5.

(3) In the event of suspension of a certificate of approval, the place shall not be deemed to be an approved place during the suspension for the purposes of termination of pregnancy from the date of communication of the order of such suspension.

8. Review:- (1) The owner of a place, who is aggrieved by an order made under rule 7, may make an application for review of the order to the Government within a period of sixty days from the date of such order.

(c) if he has assisted a registered medical practitioner in the performance of twenty-five case of medical termination of pregnancy of which at least five have been performed independently, in a hospital established or maintained, or a training institute approved for this purpose by the Government.

(i) This training would enable the Registered Medical Practitioner (RMP) to do only 1st Trimester terminations (up to 12 weeks of gestation);

(ii) For terminations up to twenty weeks the experience or training as prescribed under sub-rules (a), (b) and (d) shall apply;

(d) In case of a medical practitioner who has been registered in a State Medical Register and who holds a post-graduate degree or diploma in gynaecology and obstetrics, the experience or training gained during the course of such degree or diploma.

5. Approval of a place- (1) No place shall be approved under clause (b) of section 4,-

(i) Unless the Government is satisfied that termination of pregnancies may be done therein under safe and hygienic condition; and

(ii) Unless the following facilities are provided therein, namely :

a gynaecology examination/ labour table, resuscitation and sterilization equipment, drugs and parental table, fluid, back up facilities for treatment of shock and facilities for transportation; and

in case of second trimester, that is up to 20 weeks of pregnancy :

(a) an operation table and instruments for performing abdominal or gynaecological surgery;

(b) anaesthetic equipment, resuscitation equipment and sterilization equipment;

(c) drugs and parental fluids for emergency use, notified by Government of India from time to time.

Explanation.- In the case of termination of early pregnancy up to seven weeks using RU – 486 with Misoprostol, the same may be prescribed by a Registered Medical Practitioner (RMP) as defined under clause (d) of section 2 of the Act and rule 4 of MTP Rules, at his clinic, provided such a Registered Medical Practitioner has access to a place approved under section 4 of the MTP Act, 1971 read with MTP Amendment Act, 2002 and rules 5 of the MTP Rules. For the purpose of access, the RMP should display a certificate to this effect from the owner of the approved place.

(2) Every application for the approval of a place shall be in Form A and shall be addressed to the Chief Medical Officer of the District.

(3) On receipt of an application under sub-rule (2), the Chief Medical Officer of the District may verify any information contained, in any such application or inspect any such place with a view to satisfying himself that the facilities referred to in sub-rule (1) are provided, and that termination of pregnancies may be made under safe and hygienic conditions.

(4) Every owner of the place which is inspected by the Chief Medical Officer of the District shall afford all reasonable facilities for the inspection of the place.

MEDICAL TERMINATION OF PREGNANCY ACT, 1971

(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.]

5. Sections 3 and 4 when not to apply. – (1) The provisions of Sec.4 and so much of the provisions of sub-section (2) of Sec. 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 the registered medical practitioner in 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.

“(2) Notwithstanding anything contained in the Indian Penal Code (45 of 1860), the termination of a pregnancy by a person who is not a registered medical practitioner shall be an offence punishable under that Code, and that Code shall, to this extent, stand modified.

(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.

(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.

COMMENTS

Under S. 3(2), there can be no termination of pregnancy had exceeded twenty weeks. The only exception thereto is found in S. 5, under which the pregnancy can be terminated immediately to save the life of the pregnant woman at any stage of the pregnancy, if the opinion of the medical practitioner is formed in good faith. *V. Krishnan v. G. Rajan alias Madipu Rajan* (1994-1) 113 Mad.L.W. 89 (D.B.).

6. Substituted by Act 64 of 2002 S. 4, for S. 5 (w.e.f 18-6-2003), Prior to its substitution, S. 2 read as under:-

“(2) Notwithstanding anything contained in the Indian Penal Code (45 of 1860), the termination of a pregnancy by a person who is not a registered medical practitioner shall be an offence punishable under that Code, and that Code shall, to this extent, stand modified.

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

MEDICAL TERMINATION OF PREGNANCY ACT, 1971

6. Power to make rules. – (1) The Central Government may, by notification in the Official Gazette, make rules 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 may be comprised in one session or in two successive sessions, and If, before the expiry of the session 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.

7. Power to make regulations.- (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 purpose as may be specified in such regulations, of intimations given or information furnished in pursuance of such regulations.

⁷[(2) The intimation given and the information furnished in pursuance of regulation 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.

⁷[2-A) Every regulation made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.]

(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.

7. Inserted by Act 4 of 2005 (w.e.f. 11-1-2005).

THE MEDICAL TERMINATION OF PREGNANCY RULES, 2003

In exercise of the powers conferred by section 6 of the Medical Termination of Pregnancy Act, 1971 (34 of 1971), the Central Government hereby make the following rules, namely :

1. Short title and commencement. – (1) These rules may be called THE MEDICAL TERMINATION PRECNANCY RULES, 2003

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions,- In these rules, unless the context otherwise requires,

(a) “Act” Means the Medical Termination of Pregnancy Act, 1971 (34 of 1971);

(b) “ Chief Medical Officer” means the Chief Medical Officer of a District, by whatever name called;

(c) “Form” means a form appended to these rules;

(d) “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;

(e) “ Committee” means a committee constituted at the district level under the proviso to clause (b) of section 4 read with rule 3.

3.Composition and tenure of District Level Committee. -(1) One member of the district level committee shall be the Gynaecologist/ Surgeon/ Anaesthetist and other members from the local medical profession, non-governmental organisations, and Panchayati Raj Institution of the district.

Provided that one of the members of the committee shall be a women.

(2) Tenure of the Committee shall be for two calendar years and the tenure of the non Government members shall not be more than two terms.

4.Experience and training under clause (d) of section 2- for the purpose of clause (d) of section (2), a registered medical practitioner shall have one or more of the following experience or training in gynaecology and obstetrics, namely :

(a) In the case of a medical practitioner, who was registered in a State Medical Register immediately before the commencement of the Act, experience in the practice of gynaecology and obstetrics for a period of not less than three years;

(b) In the case of a medical practitioner, who is registered in a State Medical Register :-

(i) if he has completed six months of house surgency in gynaecology and obstetrics; or

(ii) unless the following facilities are provided therein, if he had experience at any hospital for a period of not less than one year in the practice of obstetrics and gynaecology; or

1. Vide G.S.R. 485 (E), dated 13-6-2003, published in the Gazette of India, Ext, Pt. II, S. 3 (i), dated 13-6-2003.

2. Name of the Hospital/approved place
3. Duration of pregnancy (give total No. only)
 - (a) Up to 12 weeks.
 - (b) Between 12 - 20 weeks
4. Religion of woman
 - (a) Hindu
 - (b) Muslim
 - (c) Christian
 - (d) Others
 - (e) Total
5. Termination with acceptance of contraception.
 - (a) Sterilisation.
 - (b) I.U.D.
6. Reasons for termination :

(Give total number under each sub-head)

 - (a) Danger to life of the pregnant woman.
 - (b) Grave injury to the physical health of the pregnant woman.
 - (c) Grave injury to the mental health of the pregnant woman.
 - (d) Pregnancy caused by rape.
 - (e) Substantial risk that if the child was born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.
 - (f) Failure of any contraceptive device or method.

Signature of the Officer Incharge with Date

FORM III

1	2	3	4	5	6	7
Sl. No.	Date of admission	Name of the patient	Wife/Daughter of	Age	Religion	Address

8	9	10	11	12	13	14
Duration of pregnancy	Reason on which pregnancy is terminated	Date of termination of pregnancy	Date of discharge patient	Result and remarks	Name of Registered Medical Practitioner(s) by whom the opinion is formed	Name of Registered Medical Practitioner(s) by whom pregnancy is terminated