

**THE
PRE-CONCEPTION AND
PRE-NATAL DIAGNOSTIC
TECHNIQUES (PROHIBITION
OF SEX SELECTION)
ACT, 1994**
[Act 57 of 1994]

*[As amended by Act 14 of 2003, w.e.f. 14-2-2003
Vide SO 175(E), dt 14-2-2003]*

Along with

- **The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Rule, 1996**
[As amended vide GRS 418 (E), dt. 4-6-2012, w.e.f. 5-6-2-2012]
- **The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) (Advisory Committees) Rules, 1996**

BARE ACT

*(English & Assamese)
With Short Comments*

ORIGINAL PUBLICATION COMMERCIAL LAW PUBLISHERS
(INDIA) PVT. LTD.

Printed by :- State PNDT Cell, Assam,
Directorat of Health Services (FW) Assam
Swasthya Bhawan, Hengrabari, Ghy-36



(vi)	CONTENTS	
15.	Eligibility of member for re-appointment	12
16.	Function of the Board	12
16A	Constitution of State Supervisory Board and Union territory Supervisory Board	12
CHAPTER V		
APPROPRIATE AUTHORITY AND ADVISORY COMMITTEE		
17.	Appropriate Authority and Advisory Committee	13
17A.	Powers of Appropriate Authorities	15
CHAPTER VI		
REGISTERTRATION OF GENETIC COUNSELLING CENTRES GENETIC LABORATORIES AND GENETIC CLINICS		
18.	Registration of Genetic Counseling Centres, Genetic Laboratories or Genetic Clinics	15
19.	Certificate of registration	16
20.	Cancellation or suspension of registration	16
21.	Appeal	17
CHAPTER VII		
OFFENCES AND PENALTIES		
22.	Prohibition of advertisement relating to pre-conception and pre-natal determination of sex and punishment for contravention	17
23.	Offences and penalties	17
24.	Presumption in the case of conduct of pre-natal diagnostic techniques	18
25.	Penalty for contravention of the provisions of the Act or rules for which no specific punishment is provided	18
26.	Offences by companies	18
27.	Offence to be cognizable, non-bailable and non-compoundable	19
28.	Cognizance of offences	19
CHAPTER VIII		
MISCELLANEOUS		
29.	Maintenance of records	19
30.	Power to search and seize records, etc.	19
31.	Protection of action taken in good faith	20
31A.	Removal of difficulties	20
32.	Power to make rules	20
33.	Power to make regulation	21
34.	Rules and regulation to be laid before Parliament	21
THE PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES (PROHIBITION OF SEX SELECTION) RULES, 1996		
1.	Short title and commencement	22
2.	Definitions	22

Commercial's

THE PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES (PROHIBITION OF SEX SELECTION) ACT, 1994

[Act 57 of 1994]

[As amended by Act 14 of 2003, w.e.f. 14-2-2003

Vide SO 175(E), dt 14-2-2003]

Along with

- **The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Rule, 1996**
[As amended vide GRS 418 (E), dt. 4-6-2012, w.e.f. 5-6-2-2012]
- **The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) (Advisory Committees) Rules, 1996**

BARE ACT

With Short Comments

ORIGINAL PUBLICATION COMMERCIAL LAW PUBLISHERS
(INDIA) PVT. LTD.

INTRODUCTORY

The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, is an Act to provide for the prohibition of sex selection, before or after conception, and for regulation of pre-natal diagnostic techniques for the purposes of detecting genetic malformations or sex-linked disorders and for the prevention of their misuse for sex determination leading to female foeticide and for matters connected therewith or incidental thereto. The Act is intended to prohibit pre-natal diagnostic techniques for determination of sex of the foetus leading to female foeticide. Such abuse of techniques is discriminatory against the female sex and affects the dignity and status of women. A legislation was required to regulate the use of such techniques and to provide deterrent punishment to stop such inhuman act. Hence, the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.

The Act provides for-

- (i) Prohibition of the misuse of pre-natal diagnostic techniques for determination of sex of foetus leading to female foeticide;
- (ii) Prohibition of advertisement of pre-natal diagnostic technique for detection or determination of sex;
- (iii) Permission and regulation of the use of pre-natal diagnostic techniques for the purpose of detection of specific genetic abnormalities or disorders;
- (iv) Permitting the use of such techniques only under certain conditions by the registered institutions; and
- (v) Punishment for violation of the provisions of the proposed legislation.

This concise edition comprises the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, as amended by Amendment Act 14 of 2003, w.e.f. 14-2-2003 vide SO 175(E), dt. 14-2-2003, with short comments along with the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 also have been thoroughly amended vide GSR 418(E), dt. 4-6-2012, w.e.f. 5-6-2012 and the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) (Advisory Committees) Rules, 1996, is intended for the readers to have a first hand information of the subject.

A creative feedback from the learned readers, bringing to our notice any mistake, error or omission or discrepancy that might have crept in this book in spite of our sincere efforts to avoid those, is most welcome, for it will help us to improve the overall quality, style and presentation of the book in the forthcoming editions.

PUBLISHERS

CONTENTS

THE PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) AMENDMENT ACT, 2002 (ix-xvii)

THE PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES (PROHIBITION OF SEX SELECTION) AMENDMENT RULES, 2012 (xviii)

THE PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES (PROHIBITION OF SEX SELECTION) ACT, 1994

CHAPTER I PRELIMINARY

- | | |
|---|---|
| 1. Short title, extent and commencement | 1 |
| 2. Definitions | 1 |

CHAPTER II REGULATION OF GENETIC COUNSELLING CENTRES, GENETIC LABORATORIES AND GENETIC CLINICS

- | | |
|--|---|
| 3. Regulation of Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics | 7 |
| 3A. Prohibition of sex-selection | 7 |
| 3B. Prohibition on sale of ultrasound machine, etc, to persons, Laboratories, clinics, etc., not registered under the Act. | 7 |

CHAPTER III REGULATION OF PRE-NATAL DIAGNOSTIC TECHNIQUES

- | | |
|--|---|
| 4. Regulation of pre-natal diagnostic techniques | 7 |
| 5. Written consent of pregnant women and prohibition of communicating the sex foetus | 8 |
| 6. Determination of sex prohibited | 8 |

- #### **CHAPTER IV CENTRAL SUPERVISORY BOARD**
- | | |
|---|----|
| 7. Constitution of Central Supervisory Board | 9 |
| 8. Term of office members | 10 |
| 9. Meeting of the Board | 10 |
| 10. Vacancies, etc. not to invalidate proceeding of the Board | 11 |
| 11. Temporary association of persons with the Board for particular purposes | 11 |
| 12. Appointment of officers and other employees of the Board | 11 |
| 13. Authentication of orders and other instruments of the Board | 11 |
| 14. Disqualifications for appointment as member | 11 |

(x)	THE PRE-NATAL DIAGNOSTIC.....ACT, 2002
	(bb) “embryo” means developing human organism after fertilisation till the end of eight weeks (fifty six days);
	(bc) “foetus” means a human organism during the period of its development beginning on the fifty-seventh day following fertilisation or creation (excluding any time in which its development has been suspended) and ending at the birth”;
(ii)	in clause (d), the following Explanation shall be added, namely:- “Explanation: For the purpose of this clause, “Genetic Clinic’ includes a vehicle, where ultrasound machine or imaging machine or scanner or other equipment Capable of determining sex of the foetus or a portable equipment which has the potential for detection of sex during pregnancy or selection of sex before conception is used;”
(iii)	in clause (e), the following Explanation shall be added, namely:- “Explanation; For the purposes of this clause, “Genetic Laboratory” includes a place where ultrasound machine or imaging machine or scanner or other equipment capable of determining sex of the foetus or a portable equipment which has the potential for detection of sex during pregnancy or selection of sex before conception, is used,;
(iv)	for clause (g), the following clause shall be substituted, namely:- (g)“medical geneticist” includes a person who possesses a degree or diploma in genetic science in the fields of sex selection and pre-natal diagnostic techniques or has experience of not less than two years in any of these fields after obtaining— (i) any one of the medical qualifications recognized under the Indian Medical Council Act, 1956 (102 of 1956); or (ii) a post-graduate degree in biological science;”
(v)	for clause (i), the following clause shall be substituted, namely:- “(i) “pre-natal diagnostic procedures” means all gynaecological or obstetrical or medical procedure such as ultrasonography, foetoscopy taking or removing samples of amniotic fluid, chorionic villi, embryo, blood or any other tissue or fluid of a man, or of a woman before or after conception, for being sent to a Genetic Laboratory or Genetic Clinic for conducting any type of analysis or pre-natal diagnostic tests for selection of sex before or after conception,;”
(vi)	for clause (k), the following clause shall be substituted, namely:- “(k) “pre-natal diagnostic test” means ultrasonography or any test or analysis of amniotic fluid, chorionic villi, blood or any tissue or fluid of a pregnant women or conceptus conducted to detect genetic or metabolic disorders or chromosomal abnormalities or congenital anomalies or haemoglobinopathies or sex-linked diseases;”
(vii)	After clause (n), the following clauses shall be inserted, namely:- “(o)“Sex selection” includes any procedure, technique, test or administration or prescription or provision of anything for the purpose of ensuring or increasing the probability that an embryo will be of a particular sex; (p) “sonologist or imaging specialist” means a person who possesses any one of the medical qualifications recognized under the Indian Medical Council Act, 1956 (102 of (1956) or who possesses a post-graduate qualification in ultrasonography or imaging techniques or radiology;

	CONTENTS	(vii)
3.	Minimum requirements	23
3.A	Sale of ultrasound machine/imaging machines	25
3.B.	Regulation of portable machines	26
4.	Registration of Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centres	27
5.	Application Fee	28
6.	Certificate of registration	28
7.	Validity of registration	29
8.	Renewal of registration	30
9.	Maintenance and preservation of records	30
10.	Conditions for conducting pre-natal diagnostic procedures	31
11.	Facilities for inspection	31
12.	Procedure for search and seizure	32
13.	Intimation of changes in employees, place or equipment	33
14.	Conditions for analysis or test and pre-natal diagnostic procedures	33
15.	Meetings of the Advisory Committees	34
16.	Allowance to members of the Central Supervisory Board	34
17.	Publication Information	34
18.		
19.	Appeals	35
	<i>SCHEDULE I-[Omitted]</i>	
	<i>SCHEDULE II-[Omitted]</i>	
	<i>SCHEDULE III-[Omitted]</i>	
	FORMA- APPLICATION FOR REGISTRATION OR RENEWAL OF REGISTRATION OF A GENETIC LABORATORY /GENETIC CLINIC/ULTRASOUND CLINIC/IMAGING CENTRE	38
	FORM B- CERTIFICATE OF REGISTRATION	40
	FORMC- REJECTION OF APPLICATION FOR GRANT/ RENEWAL OF REGISTRATION	41
	FORM D- MAINTENANCE OF RECORDS BY THE GENETIC COUNSELLING CENTRE	42
	FORM E- MAINTENANCE OF RECORDS BY GENETIC LABORATORY	43
	FORM F- MAINTENANCE OF RECORD IN RESPECT OF PREGNANT WOMEN BY GENETIC CLINIC/ULTRASOUND CLINIC/ IMAGING CENTRE	44
	FORM G- CONSENT	47
	FORM H- MAINTENANCE OF PERMANENT RECORD OF APPLICATIONS FOR GRANT/REJECTION OF REGISTRATION UNDER THE PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) ACT, 1994	48

**THE PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND
PREVENTION OF MISUSE) ADVISORY COMMITTEES)
RULES, 1996**

1. Short title and commencement	49
2. Definitions	49
3. Terms and conditions of appointment as a member of an Advisory committee	49
4. Meetings of the Advisory Committee	50
5. Notice of meetings	50
6. Business ordinarily to be transacted at meetings	51
7. Quorum	51
8. Chairman of the meeting	51
9. Assistance to be rendered by the Appropriate Authority to the Advisory Committee	51
10. Decisions on questions before the Advisory Committee	51
11. Vacancies etc. not to invalidate proceedings of the Advisory Committees	51
12. Record of proceedings of the Advisory Committee	51

THE PRE-NATAL DIOAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) AMENDMENT ACT, 2002

(14 of 2003, dt. 17-1-2003)

=====

An Act further to amend the Pre-natal Diagnostic Techniques
(Regulation and Prevention of Misuse) Act, 1994.

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 Pre-natal Diagnostic Techniques
(Regulation and Prevention of Misuse) Amendment Act, 2002

(2) It shall come into force on such date¹ as the Central Government
may, by notification in the Official Gazette, appoint.

2. Substitution of long title

In the Pre-natal Diagnostic Techniques (Regulation and Prevention
of Misuse) Act, 1994 (57 of 1994) (hereinafter referred to as the principal
Act.) for the long title, the following long title shall be substituted, namely:—

“An Act to provide for the prohibition of sex selection, before or
after conception, and for regulation of pre-natal diagnostic
techniques for the purposes of detecting genetic abnormalities or
metabolic disorders or chromosomal abnormalities or certain
congenital malformations or sex-linked disorders and for the
prevention of their misuse for sex determination leading to female
foeticide and for matters connected therewith or incidental thereto.”

3. Amendment of section 1

In section 1 of the principal Act, in sub-section (1) for the words
and brackets “ The Pre-natal Diagnostic Techniques (Regulation and
Prevention of Misuse)”, the words and brackets “the Pre-conception and
pre-natal Diagnostic Techniques (Prohibition of Sex Selection)” shall be
substituted.

4. Amendment of section 2

In section 2 of the principal Act,-

(i) After clause (b), the following clauses shall be inserted, namely:-
“(ba) “conceptus” means any product of conception at any stage
of development from fertilisation until birth including extra
embryonic membranes as well as the embryo or foetus;

¹ W.e.f. 14-2-2003 vide SO 175(E), dt. 14-2-2003

- (ii) eminent women activities from non-governmental organisations or otherwise;
- (iii) eminent gynaecologists and obstetricians or experts of strigga or prasuti-tantra;
- (iv) eminent paediatricians or medical geneticists;
- (v) eminent radiologists or sinologists;
- (g) an officer not below the rank of Joint Director in charge of Family Welfare, who shall be the Member Secretary, ex officio.
- (3) The State Board shall meet at least once in four months.
- (4) The term of office of a member, other than an ex officio member, shall be three years
- (5) If a vacancy occurs in the office of any member other than an ex officio member, it shall be filled by making fresh appointment.
- (6) If a member of the Legislative Assembly or member of the Legislative Council who is a member of the State Board, becomes Minister or Speaker or Deputy Speaker of the Legislative Assembly or Chairperson or Deputy Chairperson of the Legislative Council, she shall cease to be a member of the State Board.
- (7) One -third of the total number of members of the State Board shall constitute the quorum.
- (8) The State Board may co-opt a member as and when required, provided that the number of co-opted members does not exceed one-third of the total strength of the State Board.
- (9) The co-opted members shall have the same powers and functions as other members, except the right to vote and shall abide by the rules and regulations.
- (10) In respect of matters not specified in this section, The State Board shall follow procedures and conditions as are applicable to the Board."

15. Amendment of section 17

In section 17 of the principal Act,-

- (i) In sub-section (3), for clause (a), the following clause shall be substituted, namely:-
“(a) when appointed for the whole of the State or the Union territory, consisting of the following three members-
(i) An officer of or above the rank of the Joint Director of Health and Family Welfare – Chairperson;
(ii) An eminent woman representing women’s organization; and
(iii) An officer of law Department of the State or the Union territory concerned:
PROVIDED that it shall be the duty of the State or the Union territory concerned to constitute multi-member State or Union territory level Appropriate Authority within three months of the coming into force of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act. 2002:
PROVIDED FURTHER that any vacancy occurring therein shall be filled within three months of the occurrence.”,
- (ii) In sub-section (4), after clause (d), the following clauses shall be inserted namely:-

- (q) “State Board” means a State Supervisory Board or a Union territory Supervisory Board constitution under section 16A;
- (r) “State Government” in relation to Union territory with Legislature means the Administrator of that Union territory appointed by the President under article 239 of Constitution’.

5. Amendment of section 3

In section 3 of the principal Act, for clause (2), the following clause shall be substituted namely-

“(2) no Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall employ or cause to be employed or take services of any person, whether on honorary basis or on payment who does not possess the qualifications as may be prescribed.”

6. Insertion of new sections 3A and 3B

After section 3 of the principal Act, the following sections shall be inserted, namely:-

“3A. *Prohibition of sex selection*--No person, including a specialist or a team of specialist in the field of infertility shall conduct or cause to be conducted or aid in conducting by himself or by any other person, sex selection on a woman or a man or on both or on any tissue, embryo, conceptus, fluid or gametes derived from either or both of them.

3B. *Prohibition on sale of ultrasound machine, etc., to persons, laboratories, clinics, etc. not registered under the Act*-- No person shall sell any ultrasound machine or imaging machine or scanner or any other equipment capable of detecting sex of the foetus to any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or any other person not registered under the Act.”

7. Amendment of section 4

In section 4 of the principal Act, for clauses (3) and (4), the following clauses shall be substituted namely:-

- “(3) no pre-natal diagnostic techniques shall be used or conducted unless the person qualified to do so is satisfied for reasons to be recorded in writing that any of the following conditions are fulfilled, namely:-
(i) age of the pregnant woman is above thirty -five years;
(ii) the pregnant woman has undergone two or more spontaneous abortions or foetal loss;
(iii) the pregnant woman had been exposed to potentially teratogenic agents such as drugs, radiation, infection or chemicals;
(iv) the pregnant woman or her spouse has a family history of mental retardation or physical deformities such as, spasticity or any other genetic disease;
(v) any other condition as may be specified by the Board;
(vii) PROVIDED that the person conducting ultrasonography on a pregnant woman shall keep complete record thereof in the clinic in such manner, as may be prescribed, and any deficiency or inaccuracy found therein shall amount to contravention of the provisions of section 5 or section 6 unless contrary is proved by the person conducting such ultrasonography;

- (4) no person including a relative or husband of the pregnant woman shall seek or encourage the conduct of any pre-natal diagnostic techniques on her except for the purposes specified in clause (2);
- (5) no person including a relative or husband of a woman shall seek or encourage the conduct of any sex-selection technique on her or him or both."

8. Amendment of section 5

In section 5 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) No person including the person conducting pre-natal diagnostic procedures shall communicate to the pregnant woman concerned or her relatives or any other person the sex of the foetus by words, signs, or in any other manner."

9. Amendment of section 6

In section 6 of the principal Act, after clause (b), the following clause shall be inserted namely:-

"(c) no person shall, by whatever means, cause or allow to be caused selection of sex before or after conception."

10. Amendment of section 7

In section 7 of the principal Act:-

- (i) in sub-section (2), for clause (c), the following clause shall be substituted, namely:-

"(c) three members to be appointed by the Central Government to represent the Ministries of Central Government in charge of Women and Child Development, Department of Legal affairs or Legislative Department in the Ministry of Law and Justice, and Indian System of Medicine and Homoeopathy, ex officio.;"

- (ii) in clause (e), for sub-clause (ii), the following sub-clause shall be substituted, namely:-

"(ii) eminent gynaecologist and obstetrician or expert of Stri-roga or prasutitantra."

11. Amendment of section 14

In section 14 of the principal Act. For clause (f), the following clause shall be substituted, namely:-

"(f) has, in the opinion of the Central Government, been associated with the use or promotion of pre-natal diagnostic technique for determination of sex or with any sex selection technique."

12. Amendment of section 15

In section 15 of the principal Act, the following proviso shall be inserted, namely:- "PROVIDED that no member other than an ex officio member shall be appointed for more than two consecutive terms."

13. Substitution of new section for section 16

For section 16 of the principal Act, the following section shall be substituted, namely:-

"16. *Functions of the Board* – The Board shall have the following functions, namely:-

- (i) to advice the Central Government on policy matters relating to use of pre-natal diagnostic, techniques, sex selection techniques and against their misuse;

- (ii) to review and monitor implementation of the Act and rules made there under and recommend to the Central Government changes in the said Act and rules;
- (iii) to review and monitor implementation of the Act and rules made there under and recommend to the Central Government changes in the said Act and rules;
- (iv) to create public awareness against the practice of pre-conception sex selection and pre-natal determination of sex foetus leading to female foeticide;
- (v) to lay down code of conduct to be observed by persons working at Genetic Counseling Centres, Genetic Laboratories and Genetic Clinics;
- (vi) to oversee the performance of various bodies constituted under the Act and take appropriate steps to ensure its proper and effective implementation;
- (vii) any other functions may be prescribed under the Act."

14. Insertion of new section 16A

After section 16 of the principal Act, the following section shall be inserted, namely:-

"16A. *Constitution of State Supervisory Board and Union territory Supervisory Board*- (1) Each State and Union territory having Legislative shall constitute a Board to be known as the State Supervisory Board or the Union territory Supervisory Board, as the case may be, which shall have the following functions:-

- (i) to create public awareness against the practice of pre-conception sex selection and pre-natal determination of the sex of the foetus leading to female foeticide in the State;
- (ii) to review the activities of the Appropriate Authorities functioning in the State and recommend appropriate action against them.
- (iii) to monitor the implement of provisions of the Act and the rules and make suitable recommendations relating thereto, to the Board;
- (iv) to send such consolidated reports as may be prescribed in respect of the various activities undertaken in the State under the Act to the Board and the Central Government; and
- (v) any other functions as may be prescribed under the Act.

(2) The State Board shall consist of,-

- (a) the Minister in charge of Health and Family Welfare in the State, who shall be the Chairperson, ex officio;
- (b) Secretary in charge of the Department of Health and Family Welfare who shall be the Vice-Chairperson, ex officio;
- (c) Secretaries or Commissioner in charge of Departments or Women and Child Development, Social Welfare, Law and Indian System of Medicines and Homoeopathy, ex officio, or their representatives;
- (d) Director of Health and Family Welfare or Indian System of Medicines and Homoeopathy of the State Government, ex officio;
- (e) three women members of Legislative Assembly or Legislative Council;
- (f) ten members to be appointed by the State Government out of which two each shall be from the following categories,-
 - (i) eminent social scientists and legal experts;

THE PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES (PROBITION OF SEX SELECTION) AMENDMENT RULES, 2012

[GSR 418(E), dt. 4-6-2012, w.e.f. 5-6-2012]

=====

In exercise of the powers conferred by section 32 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (57 of 1994), the Central Government hereby makes the following further amendments to the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 namely:-

1. (1) These rules may be called the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2012.

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

2. In the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 (hereinafter referred to as the said rules), after rule 3, the following shall be inserted, before rule 3A, namely:-

“(3) Each medical practitioner qualified under the Act to conduct ultrasonography in a genetic clinic/ultrasound clinic/imaging centre shall be permitted to be registered with a maximum of two such clinics/centres within a district. The consulting hours for such medical practitioner, shall be clearly specified by each clinic/centre.”

3. In the said rules, in rule 5 in sub-rule (1), the following sub-rule,-

(a) In item (a) for the letters and figure “Rs. 3,000.00”, the words “rupees twenty-five thousand” shall be substituted.

(b) In item (b) for the letters and figure “Rs. 4,000.00”, the words “rupees thirty-five thousand” shall be substituted.

4. In the said rules, in rule 13, for the words “within a period of thirty days of such change”, the words “atleast thirty days in advance of the expected date of such change, and seek re-issuance of certificate of registration from the Appropriate Authority, with the changes duly incorporated” shall be substituted.

“(e) to take appropriate legal action against the use of any sex selection technique by any person at any place, suomotu or brought to its notice and also to initiate independent investigations in such matter;

(f) to create public awareness against the practice of sex selection or pre-natal determination of sex;

(g) to supervise the implementation of the provisions of the Act and rules;

(h) to recommend to the Board an State Boards modifications required in the rules in accordance with changes in technology or social conditions;

(i) to take action on the recommendations of the Advisory Committee made after investigation of complaint for suspension or cancellation of registration.”

(iii) for sub-section (7), the following sub-section shall be substituted, namely:-
“(7) No person who has been associated with the use or promotion of pre-natal diagnostic techniques for determination of sex or sex selection shall be appointed as a member for the Advisory Committee”.

16. Insertion of new section 17A

After section 17 of the principal Act, the following section shall be instead, namely:-

“17A Power of Appropriate Authorities- The Appropriate Authority shall have the powers in respect of the following matters, namely:-

- (a) summoning of any person who is in possession of any information relating to violation of the provisions of this Act the rules made there under;
- (b) production of any document or material object relating to clause(a);
- (c) issuing search warrant for any place suspected to be indulging in sex selection techniques or pre-natal sex determination; and
- (d) any other matter which may be prescribed.”

17. Amendment of section 18

In section 18 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) No person shall open any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, including clinic, laboratory or centre having ultrasound or imaging machine or scanner or any other technology capable of undertaking determination of sex of foetus and sex selection or render services to any of them, after the commencement of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 2002 unless such Centre, Laboratory or Clinic is duly registered under the Act.”

18. Substitution of new section for section 22

For section 22 of the principal Act, the following section shall be substituted, namely:-

*22. *Prohibition of advertisement relating to pre-conception and pre-natal determination of sex and punishment for contravention-* (1) No person, organization, Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, including Clinic, Laboratory or centre having ultrasound machine or imaging machine or scanner or any other technology capable of undertaking determination of sex of the foetus or sex selection shall issue, published, distributed, communicated or cause to be issued, published, distributed or communicated any advertisement, in any form, including internet, regarding facilities of pre-natal determination of sex of sex selection before conception available at such Centre, Laboratory, Clinic or at any other place.

(2) No person or organization including Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall issue, publish, distribute, communicate or cause to be issued, published, distributed or communicated any advertisement in any manner regarding pre-natal determination or pre-conception selection of sex by any means whatsoever scientific or otherwise.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend thousand rupees.

Explanation: For the purpose of this section, "advertisement" includes any notice, circular, label, wrapper or any other document including advertisement through internet or any other media in electronic or print form and also includes any visible representation made by means of any hoarding, wall-painting, signal, light, sound, smoke or gas."

19. Amendment of section 23

In section 23 of the principal Act, for sub-sections (2) and (3), the following sub-section shall be substituted, namely:-

- "(2) The name of the registered medical practitioner shall be reported by the Appropriate Authority to the State Medical Council concerned for taking necessary action including suspension of the registration of the charges are framed by the court and till the case is disposed of and on conviction for removal of his name from the register of the Council for a period of five years for the first offence and permanently for the subsequent offence.
- (3) Any person who seeks the aid of any Genetic Counselling Centre, Genetic Laboratory, Genetic clinic or ultrasound clinic or imaging clinic or of a medical geneticist, gynaecologist, sinologist or imaging specialist or registered medical practitioner or any other person for sex selection or for conducting pre-natal diagnostic techniques on any pregnant women for the purposes other than those specified in sub-section (2) of section 4, he shall, be punishable with imprisonment for a term which may extend to three years and with fine which may extend to fifty thousand rupees for the first offence and for any subsequent offence with imprisonment which may extend to five years and which fine which may extend to one lakh rupees.
- (4) For the removal of doubts, it hereby provided that the provisions of sub-section (3) shall not apply to the woman who compelled to undergo such diagnostic technique or such selection."

20. Substitution of new section for section 24

For section 24 of the principal Act, the following section shall be substituted, namely:-
"24. Presumption in the case of conduct of pre-natal diagnostic techniques- Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), the court shall presume unless the contrary is proved that the pregnant woman was compelled by her husband or any other relative, as the case may be, to undergo pre-natal diagnostic technique for the purposes other than those specified in sub-section (2) of section 4 and such person shall be liable for abetment of offence under sub-section (3) of section 23 and shall be punishable for the offence specified under that section."

21. Amendment of section 28

In section 28 of the principal Act, in sub-section (1) in clause (b) for the words "thirty days", the words "fifteen days" shall be substituted.

22. Amendment of section 30

In section 30 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:-

- "(1) If the Appropriate Authority has reason to believe that an offence under this Act has been or is being committed at any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or any other place, such Authority or any officer authorised in this behalf may, subject to such rules as may be prescribed, enter and search at all reasonable times with such assistance, if any, as such Authority or officer considers necessary, such Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or any other place and examine any record, register, document, book, pamphlet, advertisement or any other material object found therein and seize and seal the same if such Authority or officer has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act."

23. Insertion of new section 31A

After section 31 of the principal Act, the following section shall be inserted, namely:-

**31A. Removal of difficulties-* (1) If any difficulty arises in giving effect to the provisions of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 2002, the Central Government may, by order published in the Official Gazette, make such provision not inconsistent with the provisions of the said Act as appear to it to be necessary or expedient for removing the difficulty:

PROVIDED that no order shall be made under this section after the expiry of a period of three years from the date of commencement of the Pre-natal Diagnostic Technique (Regulation and Prevention of Misuse) Amendment Act, 2002.

(2) Every order made under this section shall be laid, as soon as may be after it is made before each House of Parliament."

24. Amendment of section 32

In section 32 of the principal Act, in sub-section (23)-

- (i) for clause (i), the following clauses shall be substituted, namely:-
 "(i) the minimum qualifications for persons employed at a registered Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under clause (2) of section 3;
 (ia) the manner in which the person conducting ultrasonography on a pregnant woman shall keep record thereof in the clinic under the proviso to sub-section (3) of section 4;
 (ii) After clause (iv), the following clauses shall be inserted, namely:-
 "(iva) code of conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories and Genetics Clinics to be laid down by the Central Supervisory Board under clause (iv) of section 16;
 (ivb) the manner in which reports shall be furnished by State and Union Territory Supervisory Boards to the Board and the Central Government in respect of various activities undertaken in the State under the Act under clause (iv) of sub-section (1) of section 16A;
 (ivc) empowering the Appropriate Authority in any other matter under clause (d) of section 17A;".

Embryo

Embryo is the entity which develops in a woman's womb unit it is born as baby (if not aborted, etc) Now especially this entity prior to the time at which all the organs are developed, at about the eighth week after conception (cf, foetus); in Med. Sometimes also distinguished from the conceptus or pre-embryo.- The New Shorter Oxford English Dictionary.

Embryo is an unborn or unhatched offspring in the process of development, especially an unborn human in the first eight weeks from conception - Concise Oxford Dictionary.

Foetus

Foetus is a baby in the womb; an unborn child; an infant in ventra sa mere,

An unborn viviparous animal in the womb, an unhatched oviparous animal in the egg; esp an unborn human more than eight weeks after conception.- The New Shorter Oxford English Dictionary.

Genetic counseling

Genetic code is the basis on which genetic information is stored as sequences of nucleotides in chromosomal DNA or RNA, different groups of three consecutive nucleotides corresponding to different amino acids. Genetic counselling relates to prospective parents concerning the chances of genetic disorders in a future child. Genetic drift is the variation in the relative frequency of different genotypes in a small population owing to the chance disappearance of particular genes as individuals die or do not reproduce.

Genetic engineering is the manipulation of genetic material in order to alter genes and hence the characteristics of the organism concerned.

Genetic fingerprint is a set of genetic characteristics derived from the tissues or secretions of an individual and used to identify him or her. Genetic profile is a description listing the significant genetic characteristics of an individual and used for identification, the prediction of inherited disorders, etc.

Gynaecologist

Gynaecology is the branch of medicine that deals with the physiology and diseases of women and girls, especially of their reproductive organs.- The New Shorter Oxford English Dictionary.

Gynaecology is the branch of physiology and medicine concerned with the functions and diseases specific to women and girls; specially those affecting the reproductive system.- Concise Oxford Dictionary.

A Gynaecologist is a doctor who studies and treats the medical conditions and diseases of women.

Obstetrics is the branch of medicine that deals with childbirth and the care and treatment of the mother before and after birth, the practice of midwifery.

Paediatrician

Paediatric means of or pertaining to Paediatrics or the diseases of children, Paediatrics is the branch of medical science that deals with childhood and the diseases of children. Paediatrician is a doctor who specialises in paediatrics.

Pre-natal diagnostic procedures

The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 is an Act provide for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide;

THE PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES (PROHIBITION OF SEX SELECTION) ACT, 1994

(Act No. 57 of 1994, dt. 20-9-1994)

(As amended by Amendment Act, 2002, w.e.f. 14-2-2003)

1[An Act to provide for the prohibition of sex selection, before or after conception, and for regulation of pre-natal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of their misuse for sex determination leading to female foeticide and for matters connected therewith or incidental thereto.]

BE it enacted by Parliament in the Forty-fifth year of the Republic of India as follows:-

CHAPTER I**PRELIMINARY****1. Short title, extent and commencement**

This Act may be called ²[the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection)] Act, 1994.

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

(3) It shall come into force on such date³ as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions

In this Act, unless the context otherwise requires,-

(a) "Appropriate Authority" means the Appropriate Authority appointed under section 17;

(b) "Board" means the Central Supervisory Board constituted under section 7;

⁴[(ba) "conceptus" means any product of conception at any stage of development from fertilisation until birth including extra embryonic membranes as well as the embryo or foetus;

1. Substituted vide Act 14 of 2003, w.e.f. 14-2-2003 vide SO 175(E), dt 14-2-2003.

2. Substituted, ibid for "the Pre-natal Diagnostic Techniques (Regulation and Prevention of misuse)".

3. Became enforceable w.e.f. 1-1-1996 vide GSR 706, dt. 20-12-1995.

4. Inserted vide Act 14 of 2003, w.e.f. 14-2-2003 vide SO 175 (E), dt 14-2-2003.

- (bb) "embryo" means a developing human organism after fertilisation till the end of eight weeks (fifty-six days);
- (bc) "foetus" means a human organism during the period of its development beginning on the fifty-seventh day following fertilisation or creation (excluding any time in which its development has been suspended) and ending at the birth;]
- (c) "Genetic Counseling Centre" means an institute, hospital, nursing home or any place, by whatever name called, which provides for genetic counselling to patients;
- (d) "Genetic Clinic" means a clinic, institute, hospital, nursing home or any place, by whatever name called, which is used for conducting prenatal diagnostic procedures;
¹[*Explanation:* For the purpose of this clause, "Genetic Clinic" includes a vehicle, where ultrasound machine or imaging machine or scanner or other equipment capable of determining sex of the foetus or a portable equipment which has the potential for detection of sex during pregnancy or selection of sex before conception, is used;]
- (e) "Genetic Laboratory" means a laboratory and includes a place where facilities are provided for conducting analysis or tests of samples received from Genetic Clinic for pre-natal diagnostic test;
¹[*Explanation:* For the purposes of this clause, "Genetic Laboratory" includes a place where ultrasound machine or imaging machine or scanner or other equipment capable of determining sex of the foetus or a portable equipment which has the potential for detection of sex during pregnancy or selection of sex before conception, is used;]
- (f) "gynaecologist" means a person who possesses a post -graduate qualification in gynaecology and obstetrics;
- ²[(g) "medical geneticist" includes a person who possesses a degree or diploma in genetic science in the fields of sex selection and pre-natal diagnostic techniques or has experience of not less than two years in any of these fields after obtaining-
- (i) any one of the medical qualifications recognised under the Indian Medical Council Act, 1956 (102 of 1956); or
- (ii) "pediatrician" means a person who possesses a post-graduate qualification in paediatrics;
- ²[(i) "pre-natal diagnostic procedures" means all gynaecological or obstetrical or medical procedures such as ultrasonography, foetoscopy, taking or removing samples of amniotic fluid, chorionic villi, embryo, blood or any other tissue or fluid of a man, or of a woman before or after conception, for being sent to a Genetic Laboratory or Genetic Clinic for conducting any type of analysis or pre-natal diagnostic tests for selection of sex before or after conception;]

1. Inserted vide Act, 14 of 2003, w.e.f. 14-2-2003 vide SO 175, dt. 14-2-2003,
 2. Substituted, *ibid*.

- (j) "pre-natal diagnostic techniques" includes all pre-natal diagnostic procedures and pre-natal diagnostic tests;
- ¹[(k) "pre-natal diagnostic test" means ultrasonography or any test or analysis of amniotic fluid, chorionic villi, blood or any tissue or fluid of a pregnant woman or conceptus conducted to detect genetic or metabolic disorders or chromosomal abnormalities or congenital anomalies or haemoglobinopathies or sex-linked diseases;]
- (l) "prescribed" means prescribed by rules made under this Act;
- (m) "registered medical practitioner" means a medical practitioner who possesses any recognized medical qualification as defined in clauses (h) of section 2 of the Indian Medical Council Act, 1956 (102 of 1956), and whose name has been entered in a State Medical Register;
- (n) "regulations" means regulations framed by the Board under this Act;
- ²[(o) "sex selections" includes any procedure, technique, test or administration or prescription or provision of anything for the purpose of ensuring or increasing the probability that an embryo will be of a particular sex;
- (p) "sinologist or imaging specialist" means a person who possesses any one of the medical qualifications recognised under the Indian Medical Council Act, 1956 (102 of 1956) or who possesses a post-graduate qualification in ultrasonography or imaging techniques or radiology;
- (q) "State Board" means a State Supervisory Board or a Union territory Supervisory Board constituted under section 16A;
- (r) "State Government" in relation to Union territory with Legislature means the Administrator of that Union territory appointment by the President under article 239 of Constitution.]

COMMENTS

Appropriate Authority

Under sub-section (1) of section 17, the Central Government shall appoint one or more appropriate authorities for each of the Union Territories for the purpose of this Act, and under sub-section (2), the State Government shall appoint one or more such authorities for the whole or part of the State for the purposes of the Act having regard to the intensity of the problem of pre-natal sex termination leading to female foeticide.

Board

Section 7 provides for the constitution of Central Supervisory Board to exercise the powers and perform the functions conferred under the Act.

Conceptus

Conceptus means conception,, embryo; the product of conception in the womb, especially in the early stages of pregnancy.

Conception is the beginning of pregnancy. As to human beings, the fecundation of the female ovum by the male spermatozoan resulting in human life capable of survival and maturation under normal conditions-Black's Law Dictionary.

1. Substituted vide Act 14 of 2003, w.e.f. 14-2-2003 vide SO 175 (E), dt. 14-2-2003.
 2. Inserted, *ibid*.

- (iv) Sex-linked genetic diseases;
 - (v) Congenital anomalies;
 - (vi) Any other abnormalities or diseases as may be specified by the Central Supervisory Board¹;
- ²[(3) no pre-natal diagnostic techniques shall be used or conducted unless the person qualified to do so is satisfied for reasons to be recorded in writing that any of the following conditions are fulfilled, namely:-
- (i) age of the pregnant woman is above thirty-five years;
 - (ii) the pregnant woman has undergone two or more spontaneous abortions or foetal loss;
 - (iii) the pregnant woman had been exposed to potentially teratogenic agents such as drugs, radiation, infection or chemicals;
 - (iv) the pregnant woman or her spouse has a family history of mental retardation or physical deformities such as , spasticity or any other genetic disease;
 - (v) any other condition as may be specified by the Board;
- PROVIDED that the person conducting ultrasonography on a pregnant woman shall keep complete record thereof in the clinic in such manner, as may be prescribed, and any deficiency or inaccuracy found therein shall amount to contravention of the provisions of section 5 or section 6 unless contrary is proved by the person conducting such ultrasonography;
- (4) no person including a relative or husband of the pregnant woman shall seek or encourage the conduct of any pre-natal diagnostic techniques on her except for the purposes specified in clause(2);
- (5) no person including a relative or husband of a woman shall seek or encourage the conduct of any sex-selection technique on her or him both.]

5. Written consent of pregnant woman and prohibition of communicating the sex of foetus

- (1) No person referred to in clause (2) of section 3 shall conduct the pre-natal diagnostic procedures unless-
- (a) he has explained all known side and after effects of such procedures to the pregnant woman concerned;
 - (b) he has obtained in the prescribed form her written consent to undergo such procedures in the language which she understands; and
 - (c) a copy of her written consent obtained under clause (b) is given to the pregnant woman.
- ²[(2) No person including the person conducting pre-natal diagnostic procedures shall communicate to the pregnant woman concerned or her relatives or any other person the sex of the foetus by words, signs, or in any other manner..]

6. Determination of sex prohibited

On and from the commencement of this Act.-

1. In exercise of the powers conferred by section 4(2) (vi), the Central Supervisory Board vide SO 189(E), dt. 12-2-2004, has specified as: "any other indication of possible genetic disease/ anomaly in the foetus such as sporadic genetic disease in the couple, a positive screening test for genetic disease/congenital anomaly in pregnancy etc."
2. Substituted by Act. 14 of 2003, w.e.f 14-2-2003 vide SO 175(E), dt. 14-2-2003.

and for matters connected therewith or incidental thereto. Under section 2 (i) of that Act "pre-natal diagnostic procedure" means all gynaecological or obstetrical or medical procedures such as ultrasonography, foetoscopy, taking or removing samples of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman for being sent to Genetic Laboratory or Genetic Clinic for conducting pre-natal diagnostics tests.

Prescribed

Section 32 of the Act empowers the Central Government to make rules for carrying out the provisions of the Act, in particular such rules may provide for the purposes enumerated under clauses (i) to (xiv) of sub-section (2) of section 32.

Registered Medical Practitioner

Recognised medical qualification means any of the medical qualifications included in the Schedules to the Indian Medical Council Act, 1956.

Regulations

Under Section 33 of the Act, the Central Supervisory Board may, with the previous sanction of the Central Government, by notification in the Official Gazette make regulations not inconsistent with the provisions of the Act and Rules made there under to provide for-

- (a) the time and place of the meetings of the Board and the procedure to be followed for the transaction of business at such meetings and the number of members which shall form the quorum under sub-section (1) of section 9;
- (b) The manner in which a person may be temporarily associated with the Board under sub-section (1) of section 11.
- (c) The method of appointment, the conditions of service and the scales of pay and allowance of the officer and other employees of the Board appointed under section 12;
- (d) Generally for the efficient conduct of the affairs of the Board.

Every rule and every regulation made 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 or more successive sessions, and if, before the expiry of the session immediately following the session of the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both House agree that the rule of regulation should not be made, the rule or regulation 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 or regulation.

Sonologist or imaging specialist

Sonograph is an instrument which analyses sound into its component frequencies and produces a graphical record of the results.

State Board

Section 16A of the Act provides for the constitution of State Supervisory Board and Union Territory Supervisory Board. Accordingly, each State and Union territory having Legislature shall constitute a Board to be known as the State Supervisory Board the Union territory Supervisory Board, as the case may be, which shall have the following functions:-

- (i) to create public awareness against the practice of pre-conception of sex selection and pre-natal determination of sex of foetus leading to female foeticide in the State;
- (ii) to review the activities of the Appropriate Authorities functioning in the State and recommend appropriate action against them;
- (iii) to monitor the implementation of provisions of the Act and the rules and make suitable recommendations relating thereto, to the Board;
- (iv) to send such consolidated reports as may be prescribed in respect of the various activities undertaken in the State under the Act to the Board and the Central Government; and

- (v) any other functions as may be prescribed under the Act.
- (2) The State Board shall consist of,-
 - (a) the Minister in charge of Health and Family Welfare in the State, who shall be the Chairperson, ex officio;
 - (b) Secretary in charge of the Department of Health and Family Welfare who shall be the Vice -Chairperson, ex officio;
 - (c) Secretaries or Commissioners in charge of Departments of Women and Child Development, Social Welfare, Law and Indian System of Medicines and Homoeopathy, ex officio, or their representatives;
 - (d) Director of Health and Family Welfare or Indian System of Medicines and Homoeopathy of the State Government, ex officio;
 - (e) three women members of Legislative Assembly or Legislative Council;
 - (f) ten members to be appointed by the State Government out of which two each shall be from the following categories;
 - (i) eminent women scientists and legal experts;
 - (ii) eminent women activists from non-governmental organizations or otherwise;
 - (iii) eminent gynaecologists and obstetricians or experts of stridhan or prasuti-tantra;
 - (iv) eminent paediatricians or medical geneticists;
 - (v) eminent radiologists or sonologists;
 - (g) an officer not below the rank of Joint Director in charge of Family Welfare, who shall be the Member Secretary, ex officio.
- (3) The State Board shall meet at least once in four months.
- (4) The term of office of a member, other than an ex officio member, shall be three years.
- (5) If a vacancy occurs in the office of any member other than an ex officio member, it shall be filled by making fresh appointment.
- (6) If a member of the Legislative Assembly or member of the Legislative Council who is a member of the State Board, becomes Minister or Speaker or Deputy Speaker of the Legislative Assembly or Chairperson or Deputy Chairperson of the Legislative Council, he shall cease to be a member of the State Board.
- (7) One-third of the total number of members of the State Board shall constitute the quorum.
- (8) The State Board may co-opt a member as and when required, provided that the number of co-opted members does not exceed one-third of the total strength of the State Board.
- (9) The co-opted members shall have the same powers and functions as other members, except the right to vote and shall abide by the rules and regulations.
- (10) In respect of matters not specified in this section, the State Board shall follow procedures and conditions as are applicable to the Board.

State Government

Article 239 of the constitution provides for the administration of Union Territories. It says:

- (1) Save as otherwise provided by Parliament by Law, every Union Territory shall be administered by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify.
- (2) Notwithstanding anything contained in part VI, the President may appoint the Governor of a State as the administrator of an adjoining Union Territory, and where a Governor is so appointed, he shall exercise his functions as such administrator independently of his council of Ministers.

CHAPTER II

REGULATION OF GENETIC COUNSELLING CENTRES, GENETIC LABORATORIES AND GENETIC CLINIC

3. Regulation of Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics

On and from the commencement of this Act-

- (1) no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic unless registered under this Act, shall conduct or associate with, or help in, conducting activities relating to pre-natal diagnostic techniques;
- ¹[(2) no Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall employ or cause to be employed or take services of any person, whether on honorary basis or on payment who does not possess the qualifications as may be prescribed;]
- (3) no medical geneticist, gynaecologist paediatrician registered medical practitioner or any other person shall conduct or cause to be conducted or aid in conducting by himself or through any other person, any pre-natal diagnostic techniques at a place other than a place registered under this Act.

²[3A. Prohibition of sex-selection

No person, including a specialist or a team of specialists in the field of infertility, shall conduct or cause to be conducted or aid in conducting by himself or by any other person, sex selection on a woman or a man or on both or on any tissue, embryo, conceptus, fluid or gametes derived from either or both of them.

3B. Prohibition on sale of ultrasound machine, etc, to persons, laboratories, clinics, etc., not registered under the Act.

No person shall sell any ultrasound machine or imaging machine or scanner or any other equipment capable of detecting sex of foetus to any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or any other person not registered under the Act.]

CHAPTER III

REGULATION OF PRE-NATAL DIAGNOSTIC TECHNIQUES

4. Regulation of pre-natal diagnostics techniques

On and from the commencement of this Act,-

- (1) no place including a registered Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall be used or caused to be used by any person for conducting pre-natal diagnostic techniques except for the purposes specified in clause (2) and after satisfying any of the conditions specified in clause (3);
- (2) no pre-natal diagnostic techniques shall be conducted except for the purposes of detection of any of the following abnormalities, namely:-
 - (i) chromosomal abnormalities;
 - (ii) genetic metabolic diseases;
 - (iii) haemoglobinopathies;

1. Substituted vide Act. 14 of 2003,, w.e.f. 14-2-2003 vide SO 175 (E), dt. 14-2-2003

2. Inserted, *ibid*.

15. Eligibility of member for re-appointment

Subject to the other terms and conditions of service as may be prescribed, any person ceasing to be a member shall be eligible for re-appointment as such member

¹[PROVIDED that no member other than an ex officio member shall be appointed for more than two consecutive terms.]

²[16. Functions of the Board

The Board shall have the following functions, namely:-

- (i) to advise the Central Government on policy matters relating to use of pre-natal diagnostic techniques, sex selection techniques and against their misuse;
- (ii) to review and monitor implementation of the Act and rules made there under and recommend to the Central Government changes in the said Act and rules;
- (iii) to create public awareness against the practice of pre-conception sex selection and pre-natal determination of sex of foetus leading to female foeticide;
- (iv) to lay down code of conduct to be observed by the persons working at Genetic counseling Centres, Genetic Laboratories and Genetic Clinics;
- (v) to oversee the performance of various bodies constituted under the Act and taken appropriate steps to ensure its proper and effective implementations;
- (vi) any other functions as may be prescribed under the Act.]

¹[16A. Constitution of State Supervisory Board and Union territory Supervisory Board

(1) Each State and Union territory having Legislature shall constitute a Board to be known as the State Supervisory Board or the Union territory Supervisory Board, as the case may be, which shall have the following functions:-

- (i) to create public awareness against the practice of pre-conception sex selection and pre-natal determination of sex of foetus leading to female foeticide in the State;
 - (ii) to review the activities of the Appropriate Authorities functioning in the State and recommend appropriate action against them;
 - (iii) to monitor the implementation of provisions of the Act and the rules and make suitable recommendations relating thereto, to the Board;
 - (iv) to send such consolidated reports as may be prescribed in respect of the various activities undertaken in the State under the Act to the Board and the Central Government; and
 - (v) any other functions as may be prescribed under the Act.
- (2) The State Board shall consist of,-
- (a) The Minister in charge of Health and Family Welfare in the State, who shall be the Chairperson, ex officio;
 - (b) Secretary in-charge of the Department of Health and Family Welfare who shall be the Vice Chairperson, ex officio;

1. Inserted by Act 14 of 2003, w.e.f. 14-2-2003 vide SO 175(E), dt. 14-2-2003.

2. Substituted, *ibid*.

- (a) no Genetic Counseling Centre or Laboratory or Genetic Clinic shall conduct or cause to be conducted in its Centre, Laboratory or Clinic, pre-natal diagnostic techniques including ultrasonography, for the purpose of determining the sex of a foetus;
 - (b) no person shall conduct or cause to be conducted any pre-natal diagnostic techniques including ultrasonography for the purpose of determining the sex of foetus.
- ¹[(c) no person shall, by whatever means, cause or allow to be caused selection of sex before or after conception.]

CHAPTER IV**CENTRAL SUPERVISORY BOARD****7. Constitution of Central Supervisory Board**

(1) The Central Government shall constitute as Board to be known as the Central Supervisory Board to exercise the powers and perform the functions conferred on the Board under this act.

(2) The Board shall consist of -

- (a) the Minister in charge of the Ministry or Department of Family Welfare, who shall be the Chairman, ex officio;
- (b) the Secretary to the Government of India in charge of the Department of Family Welfare, who shall be the Vice-Chairman, ex-officio;

²[(c) three members to be appointed by the Central Government to represent the Ministries of Central Government in charge of Women and Child Development, Department of Legal Affairs or Legislative Department in the Ministry of Law and Justice, and Indian System of Medicine and Homoeopathy, ex officio;]

(d) the Director General of Health Services of the Central Government, ex-officio;

(e) ten members to be appointed by the Central Government, two each from amongst-

- (i) eminent medical geneticists;
- ²[(ii) eminent gynaecologist and obstetrician or expert of stri-roga or prasuti-tantra;]
- (iii) Eminent paediatricians;
- (iv) Eminent social scientists; and
- (v) Representatives of women welfare organizations;

(f) three women Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States;

(g) four members to be appointed by the Central Government by rotation to represent the States and the Union territories, two in the alphabetical order and two in the reverse alphabetical order;

1. Inserted by Act 14 of 2003, w.e.f. 14-2-2003 vide SO 175(E), dt. 14-2-2003.

2. Substituted, *ibid*.

PROVIDED that no appointment under this clause shall be made except on the recommendation of the State Government or, as the case may be, the Union territory;

- (h) An officer, not below the rank of a Joint Secretary or equivalent of the Central Government, in charge of Family Welfare, who shall be the Member-Secretary, ex officio.

8. Term of officio of members

- (1) The term of officio of a member, other than an ex officio member, shall be,-
- (a) in case of appointment under clause (e) or clause (f) of sub-section (2) of section 7, three years: 1[xxx]
²[PROVIDED that the term of office of a member elected under clause (f) of sub-section (2) of section 7 shall come to an end as soon as the member becomes a Minister or Minister of State or Deputy Minister, or the Speaker or the Deputy Speaker of the House of the People, or the Deputy Chairman of the Council of States or Ceases to be a member of the House from which he was elected; and]
- (b) in case of appointment under clause (g) of the said sub-section, one year.
- (2) If, a casual vacancy occurs in the office of any members, whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity, such vacancy shall be filled by the Central Government by making a fresh appointment and the member so appointed shall hold office for the remainder of the term of office of the person in whose place he is so appointed.
- (3) The Vice-Chairman shall perform such functions as may be assigned to him by the Chairman from time to time.
- (4) The procedure to be followed by the members in the discharge of their functions shall be such as may be prescribed.

9. Meetings of the Board

- (1) The Board shall meet at such time and place, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations: PROVIDED that the Board shall meet at least once in six months.

(2) The chairman and in his absence the Vice-Chairman shall preside at the meetings of the Board.

(3) If for any reason the Chairman or the Vice-Chairman is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.

(5) Members other than ex officio members shall receive such allowances, if any, from the Board as may be prescribed.

1. Word "and" omitted vide Act 32 of 2001

2. Provisio inserted, *ibid*.

10. Vacancies, etc, not to invalidate proceedings of the Board

No act or proceeding of the Board shall be invalid merely by reason of -

- (a) any vacancy in or any defect in the constitution of, the Board, or
 (b) any defect in the appointment of a person acting as a member of the Board; or
 (c) any irregularity in the procedure of the Board not affecting the merits of the case.

11. Temporary association of persons with the Board for particular purposes

(1) The Board may associate with itself, in such manner and for such purposes as may be determined by regulations any person whose assistance or advice it may desire in carrying out any of the provisions of this Act.

(2) A person associated with it by the Board under sub-section (1) for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the Board and shall not be a member for any other purpose.

12. Appointment of officers and other employees of the Board

(1) For the purpose of enabling it efficiently to discharge its functions under this Act, the Board may, subject to such regulations as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary;

PROVIDED that the appointment of such category of officers, as may be specified in such regulations, shall be subject to the approval of the Central Government.

(2) Every officer or other employee appointed by the Board shall be subject to such conditions of service and shall be entitled to such remuneration as may be specified in the regulations.

13. Authentication of orders and other instruments of the Board

All order and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorized by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of the Member-Secretary or any other officer of the Board authorized in like manner in this behalf.

14. Disqualifications for appointment as member

A person shall be disqualified for being appointed as a member if, he-

- (a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or
 (b) is an undischarged insolvent; or
 (c) is of unsound mind and stands so declared by a competent court; or
 (d) has, been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or
 (e) has, in the opinion of the Central Government, such financial or other interest in the Board as is likely to affect prejudicially the discharge by him of his functions as a member; or

¹[(f) has, in the opinion of the Central Government, been associated with the use or promotion of pre-natal diagnostic technique for determination of sex or with any sex selection technique.]

1. Substituted by Act 14 of 2003, w.e.f. 14-2-2003 vide SO 175(E), dt. 14-2-2003

(2) Every application for registration under sub-section (1) shall be made to the Appropriate Authority in such form and in such manner and shall be accompanied by such fees as may be prescribed.

(3) Every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic engaged, either partly or exclusively, in counseling or conducting pre-natal diagnostic techniques for any of the purposes mentioned in section 4, immediately before the commencement of this Act, shall apply for registration within sixty days from the date of such commencement.

(4) Subject to the provisions of section 6, every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic engaged in counseling or conducting pre-natal diagnostic techniques shall cease to conduct any such counseling or technique on the expiry of six months from the date of commencement of this Act unless such Centre, Laboratory or Clinic has applied for registration and is so registered separately or jointly or till such application is disposed of, whichever is earlier.

(5) No Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall be registered under this Act unless the Appropriate Authority is satisfied that such Centre, Laboratory or Clinic is in a position to provide such facilities, maintain such equipment and standards as may be prescribed.

19. Certificate of registration

(1) The Appropriate Authority shall, after holding an inquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules made thereunder and having regard to the advice of the Advisory Committee in this behalf, grant a certificate of registration in the prescribed form jointly or separately to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, as the case may be.

(2) If, after the inquiry and after giving an opportunity of being heard to the applicant and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of this Act or the rules, it shall, for reasons to be recorded in writing, reject the application for registration.

(3) Every certificate of registration shall be renewed in such manner and after such period and on payment of such fees as may be prescribed.

(4) The certificate of registration shall be displayed by the registered Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic in a conspicuous place at its place of business.

20. Cancellation or suspension of registration

(1) The Appropriate Authority may *suo moto*, or on complaint, issue a notice to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic to show cause why its registration should not be suspended or cancelled for the reasons mentioned in the notice.

(2) If, after giving a reasonable opportunity of being heard to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that there has been a breach of the provisions of this Act or the rules, it may, without prejudice to any criminal action that it may take against such Centre, Laboratory or Clinic, suspend its registration for such period as it may think fit or cancel its registration, as the case may be.

(3) Notwithstanding anything contained in sub-sections (1) and (2), if the Appropriate Authority is of the opinion that it is necessary or expedient so to do in the public interest, it may, for reason to be recorded in writing, suspend the registration of any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic without issuing any such notice referred to in sub-section (1).

- (c) Secretaries or Commissioner in charge of Departments of Women and Child Development, Social welfare, Law and Indian System of Medicines and Homoeopathy, ex officio, or their representatives;
- (d) Director of Health and Family Welfare or Indian System of Medicines and Homoeopathy of the State Government, ex officio;
- (e) three women members of Legislative Assembly or Legislative Council;
- (f) ten members to be appointed by the State Government out of which two each shall be from the following categories:-
 - (i) eminent social scientists and legal experts;
 - (ii) eminent women activities from non-governmental organizations or otherwise;
 - (iii) eminent gynaecologist and obstetricians or experts of stritra or prasuti-tantra;
 - (iv) eminent paediatricians or medical geneticists;
 - (v) eminent radiologists or sonologists;
- (g) An officer not below the rank of Joint Director in charge of Family Welfare, who shall be the Member Secretary, ex officio

(3) The State Board shall meet at least once in four months.

(4) The term of office of a member, other than an ex-officio member, shall be three years.

(5) If a vacancy occurs in the office of any member other than an ex-officio member, it shall be filled by making fresh appointment.

(6) If a member of the Legislative Assembly or member of the Legislative Council who is a member of the State Board, becomes Minister or Speaker or Deputy Speaker of the Legislative Assembly or Chairperson or Deputy Chairperson of the Legislative Council, he shall cease to be a member of the State Board.

(7) One-third of the total number of members of the State Board shall constitute the quorum.

(8) The State Board may co-opt a member as and when required, provided that the number of co-opted members does not exceed one-third of the total strength of the State Board.

(9) The co-opted members shall have the same powers and functions as other members, except the right to vote and shall abide by the rules and regulations.

(10) In respect of matters not specified in this section, the State Board shall follow procedures and conditions as are applicable to the Board.]

CHAPTER V

APPROPRIATE AUTHORITY AND ADVISORY COMMITTEE

17. Appropriate Authority and Advisory Committee

(1) The Central Government shall appoint, by notification in the Official Gazette, one or more Appropriate Authorities for each of the Union territories for the purpose of this Act.

(2) The State Government shall appoint, by notification in the Official Gazette, one or more Appropriate Authorities for the whole or part of the State for the purposes of this Act having regard to the intensity of the problem of pre-natal sex determination leading to female foeticide.

(3) The officers appointed as Appropriate Authorities under sub-section (1) or sub-section (2) shall be,-

¹[(a) when appointed for the whole of the State or the Union territory, consisting of the following three members:-

- (i) an officer of or above the rank of the Joint Director of Health and Family Welfare-Chairperson;
- (ii) an eminent woman representing women's organization; and
- (iii) an officer of Law Department of the State or the Union territory concerned:

PROVIDED that it shall be the duty of the State or the Union territory concerned to constitute multi-member State or Union territory level Appropriate Authority within three months of the coming into force of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 2002; PROVIDED FURTHER that any vacancy occurring therein shall be filled within three months of the occurrence;]

(b) when appointed for any part of the State or the Union territory, of such other rank as the State Government or the Central Government, as the case may be, deem fit.

(4) the Appropriate Authority shall have the following functions, namely:-

- (a) to grant, suspend or cancel registration of Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic;
- (b) to enforce standards prescribed for the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic;
- (c) to investigate complaints of breach of the provisions of this Act or the rules made thereunder and take immediate action;
- (d) to seek and consider the advice of the Advisory Committee, constituted under sub-section (5), on application for registration and on complaints for suspension or cancellation of registration;

²[(e) to take appropriate legal action against the use of any sex selection technique by any person at any place, suo motu or brought to its notice and also to initiate independent investigations in such matter;

(f) to create public awareness against the practice of sex selection or pre-natal determination of sex;

(g) to supervise the implementation of the provisions of the Act and rules;

(h) to recommend to the Board and State Board modifications required in the rules in accordance with changes in technology or social conditions;

(i) to take action on the recommendation of the Advisory Committee made after investigation of complaint for suspension or cancellation of registration.]

(5) The Central Government or the State Government, as the case may be, shall constitute an Advisory Committee for each Appropriate Authority to aid and advise the

1. Substituted by Act 14 of 2003, w.e.f. 14-2-2003 vide SO 175 (E) 14-2-2003.

2. Inserted, *ibid*.

Appropriate Authority in the discharge of its functions, and shall appoint one of the members of the Advisory Committee to be its Chairman.

(6) The Advisory Committee shall consist of -

- (a) three medical experts from amongst gynaecologist, obstetricians, paediatricians and medical geneticist;
- (b) one legal expert;
- (c) one officer to represent the department dealing with information and publicity of the State Government or the Union Territory, as the case may be;
- (d) Three eminent social workers of whom not less than one shall be from amongst representatives of women's organizations.

¹[(7) No person who has been associated with the use or promotion of pre-natal diagnostic techniques for determination of sex or sex selection shall be appointed as a member of the Advisory Committee.]

(8) The Advisory Committee may meet as when it thinks fit or on the request of the Appropriate Authority for consideration of any application for registration or any complaint for suspension or cancellation of registration and to give advice thereon:

PROVIDED that the period intervening between any two meetings shall not exceed the prescribed period.

(9) The terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed by such Committee in the discharge of its functions shall be such as may be prescribed.

²[17A. Power of Appropriate Authorities

The Appropriate Authority shall have the powers in respect of the following matters, namely:-

- (a) Summoning of any person who is in possession of any information relating to violation of the provisions of this Act or the rules made thereunder;
- (b) Production of any document or material object relating to clause (a);
- (c) Issuing search warrant for any place suspected to be indulging in sex selection techniques or pre-natal sex determination; and
- (d) Any other matter which may be prescribed.]

CHAPTER VI

REGISTRATION OF GENETIC COUNSELLING CENTRES, GENETIC LABORATORIES AND GENETIC CLINICS

18. Registration of Genetic Counselling Centres, Genetic Laboratories or Genetic Clinics

¹[(1) No person shall open any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, including clinic, laboratory or centre having ultrasound or imaging machine or scanner or any other technology capable of undertaking determination of sex of foetus and sex selection, or render services to any of them, after the commencement of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 2002 unless such Centre, Laboratory or Clinic is duly registered under the Act.]

1. Substituted by Act 14 of 2003, w.e.f. 14-2-2003 vide SO 175 (E), dt. 14-2-2003

2. Inserted, *ibid*.