

# **MEDICAL TERMINATION OF PREGNANCY**

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

[Act, No. 34 of 1971]

[10th August, 1971]

**PREAMBLE**

*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:--

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**Section 1 - Short title, extent and commencement**

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

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1. Enforcement date of the Act in the State of Sikkim as per Notification No. SO997(E) is 19.06.2007

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**Section 2 - Definitions**

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In this Act, unless the context otherwise requires,--

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

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

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

(d) "registered medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956 (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.

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**1. Words "lunatic"" Substituted by The Medical Termination Of Pregnancy (Amendment) Act, 2002 ( 64 Of 2002) w.e.f 18.06.2003**

**2. Clause "b" Substituted by The Medical Termination Of Pregnancy (Amendment) Act, 2002 ( 64 Of 2002) w.e.f 18.06.2003. Prior to substitution it read as under:**

"(b) "lunatic" has the meaning assigned to it in section 3 of the Indian Lunacy Act, 1912 (4 of 1912);"

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

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(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 to her physical or mental health; or

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

Explanation 1.--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.

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

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

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

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**1. Words "lunatic": Substituted by The Medical Termination Of Pregnancy (Amendment) Act, 2002 ( 64 Of 2002) w.e.f 18.06.2003**

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#### **Section 4 - Place where pregnancy may be terminated**

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##### **<sup>1</sup>[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 or 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.]

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**1. Substituted by The Medical Termination Of Pregnancy (Amendment) Act, 2002 ( 64 Of 2002) w.e.f 18.06.2003. Prior to substitution it 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. "**

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#### **Section 5 - Sections 3 and 4 when not to apply**

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

**<sup>1</sup>[(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 (6) 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.]

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1. Substituted by The Medical Termination Of Pregnancy (Amendment) Act, 2002 ( 64 Of 2002) w.e.f 18.06.2003. Prior to substitution it 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 purposes 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."

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## Section 6 - Power to make rules

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(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 in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both 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.

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## **Section 7 - Power to make regulations**

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

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

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

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

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

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

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## **Section 8 - Protection of action taken in good faith**

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**No suit or other legal proceedings 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.**

**THE MEDICAL TERMINATION OF PREGNANCY RULES, 1975**

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

**1. Short title and commencement: -**

- (1) These rules may be called the Medical Termination of Pregnancy Rules, 1975.
- (2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions: -**

- (a) "Act" means the Medical Termination of Pregnancy Act 1971, (4 of 1971).
- (b) "Chief Medical Officer of the District" 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 such hospital or clinic, by whatever name called;
- (e) "Place" means such building tent, vehicle or vessel or part thereof as is used for the establishment or maintenance therein of a hospital or clinic which is used or intended to be used for the termination of any pregnancy;
- (f) "Section" means a Section of the Act.

**3. Experience of training, etc: -**

For the purpose of clause (d) of section 2, a registered medical practitioner shall have one or more of the following experience of training in Gynecology 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 was registered in a State Medical Register on or after the date of commencement
  - (i) if he has completed six months of house surgery in Gynaecology and obstetrics ; or
  - (ii) where he has not done any such house surgery if he had experienced at any hospital for a period of not less than one year in the practice of obstetrics and gynecology : or,
  - (iii) if he has assisted a registered Medical practitioner in the performance of twenty five cases of Medical termination of pregnancy in a hospital established or maintained or a training institute approved for this purpose by the Government.
- (c) in the case of a medical practitioner who has been registered in a state medical Register and who holds and who holds a post graduate degree or diploma in gynecology and obstetrics, the experience of training gained during the course of such degree or diploma.

#### **4. 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 there in under safe and hygienic conditions; and
  - (ii) Unless the following facilities are provided therein namely:
    - (a) an operation table and instrument for performing abdominal or gynecological surgery;
    - (b) anesthetic equipment resuscitation equipment and sterilisation equipment;
    - (c) drugs and parenteral fluids for emergency use.

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

(3) On receipt of an application referred to in sub-rule (2) the chief Medical Officer of the District shall verify or enquire 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 therein and that termination of pregnancies may be made therein 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.

(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 Government.

(6) The Government may after considering the application and the recommendation 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 Government shall be conspicuously displayed at the place to be easily visible to persons visiting the place.

## **5. Inspection of the place:-**

(1) A place approved under rule 4 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, ampule, 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 shall, so far as may be apply to seizures made under sub-rule (2).

**6. Cancellation or suspension of certificate of approval: -**

(1) If, after inspection of any place approved under rule 4, the Chief Medical Officer of the District is satisfied that facilities specified in rule 4 are not being properly 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 facts to the Government giving the details of the deficiencies or defects found at the place. On receipt of such report the Government may after giving the owner of the place a reasonable opportunity of being heard, either cancel the certificate of approval or suspend the same for such period as it may think fit.

(2) Where a certificate issued under rule 4 is cancelled or suspended the owner of the place may make such additions or improvements in the place as he may think fit and thereafter, he may make an application to the Government for the issue to him of a fresh certificate of approval under the rule 4 or as the case may be for the revival of the certificate which was suspended under sub-rule (1).

(3) The provisions of rule 4 shall as far as may apply to an application for the issue of a fresh certificate of approval in relation to a place or as the case may be for the revival of a suspended certificate as they apply to an application for the issue of a certificate of approval under that rule.

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

**7. Review: -**

(1) The owner of a place who is aggrieved by an order made under rule 6 may make an application for review of the order to the Government within a period of sixty days from the date of such order.

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

**8. Form of consent: -**

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

**9. Repeal and saving: -**

The Medical Termination of Pregnancy Rules 1972 are hereby repealed excepts as respects things done or omitted to be done before such repeal.

**MEDICAL TERMINATION OF PREGNANCY RULES, 2003**

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

**1. Short title and commencement -**

(1) These rules may be called the Medical Termination of Pregnancy Rules, 2003.

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

**2. Definitions –**

In this 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/Anesthetist and other members from the local medical profession, non-governmental organizations, and Panchayati Raj Institution of the district.

Provided that one of the members of the Committee shall be a woman.

(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 surgery 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
- (c) if he has assisted a registered medical practitioner in the performance of twenty-five cases 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 1<sup>st</sup> 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 conditions; and

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

in case of first trimester, that is, up to 12 weeks of pregnancy :-

a gynecology examination/labour table, resuscitation and sterilization equipment, drugs and parental 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 section 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 a 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.

(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 Chief medical Officer of the District is satisfied that the facilities specified in rule 5 are not being properly 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 there after, 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 :

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.

## MEDICAL TERMINATION OF PREGNANCY REGULATIONS, 2003

In exercise of powers 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" means the Chief Medical Officer of a 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 1.

(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 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 next working day 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 therein 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 :-

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

## LANDMARK JUDGMENTS

- The Supreme Court of India in '*Suchita Srivastava & Anr vs Chandigarh Administration*' (2009)9SCC1 held that the victim's pregnancy cannot be terminated without her consent and proceeding with the same would not serve her 'best interests'. It was further observed that the language of the MTP Act clearly respects the personal autonomy of mentally retarded persons who are above the age of majority and court cannot permit a dilution of the requirement of consent for proceeding with a termination of pregnancy. The court further urged the need to look beyond social prejudices in order to objectively decide whether a person who is in a condition of mild mental retardation can perform parental responsibilities.
- The High court of Punjab & Haryana in the matter of '*Dr. Mangla Dogra and Others v Anil Kumar Malhotra and Others*' (2012)ILR 2Punjab and Haryana446 held that if wife had consented to matrimonial sex and created sexual relations with her own husband, it did not mean that she had consented to conceive child. Husband could not compel wife to conceive and give birth to his child. It was further observed that mere consent to conjugal rights did not mean consent to give birth to child for her husband. Further it was held that The Medical Termination of Pregnancy Act, 1971 (34 of 1971), nowhere provides for the express or implied consent of the husband. The wife is the best judge and is to see whether she wants to continue the pregnancy or to get it aborted.