



The Delhi Artificial Insemination (Human) Act, 1995

Act 12 of 1996

Keyword(s):

Donor, Government Hospital, Semen, Semen Bank, Doctor

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16. अपराध की सजा हेतु सामान्य उपबन्ध—जो व्यक्ति इस अधिनियम या इसके अधीन निर्मित किसी नियम या आदेश या अधिग्रहण के उपबन्ध का उल्लंघन करता है तथा अपराध के लिए यदि कोई दण्ड की व्यवस्था नहीं है तो यह प्रथम अपराध के लिए पांच सौ रुपये के अर्धदण्ड का भागी होगा तथा दूसरी बार या बार-बार अपराध करने पर उसे दो हजार रुपये के अर्धदण्ड की सजा होगी।

17. धारा 10, 11, 12, 13 या 14 के उपबन्धों के उल्लंघन के लिए सजा—जो व्यक्ति इस अधिनियम की धारा 10, 11, 12, 13 या 14 के किन्हीं उपबन्धों का उल्लंघन करता है, वह पहली बार पांच सौ रुपये के अर्धदण्ड का भागी होगा तथा दूसरी बार या बार-बार अपराध करने पर उसे दो हजार रुपये के अर्धदण्ड की सजा होगी।

18. इस अधिनियम के अधीन अपराधों पर मुकदमे चलाने तथा अपराध की सुनवाई के लिए न्यायालय सक्षम—(1) कितने महानगरिय न्यायालय के न्यायाधोश के अतिरिक्त कोई भी न्यायालय इस अधिनियम के अधीन किसी अपराध को संज्ञेय मानने और उसका मुकदमा चलाने के लिए नहीं लेगा।

(2) इस संबंध में लिखित में पर्यवेक्षण अधिकारी या उसके द्वारा प्राधिकृत किसी अन्य अधिकारी को लिखित में शिकायत के अतिरिक्त इस अधिनियम के अधीन किसी भी अपराध संज्ञेय रूप में नहीं लेगा।

(3) दण्ड प्रक्रिया संहिता, 1973 (1974 का 2) में कुछ भी रहते हुए इस अधिनियम के अंतर्गत अपराध असंज्ञेय एवं जमानती होंगे।

19. शक्तियां सौंपना—शासन, सरकारी राजपत्र में अधिसूचना द्वारा इस अधिनियम के अंतर्गत उसके प्रयोग योग्य कोई शक्ति इसमें यथाविनिर्दिष्ट ऐसे अधिकारी द्वारा ऐसी शर्तों के अधीन, यदि इसमें कुछ भी यथाविनिर्दिष्ट हो, भी प्रयोग की जा सकेगी।

20. सद्भावना से की गई कार्यवाही का बचाव—सद्भावना से इस अधिनियम के अनुसरण की जाने वाली किसी बात के लिए किसी व्यक्ति को विरुद्ध कोई वाद, अभियोग या कानूनी कार्यवाही नहीं चलाया जायेगा/की जायेगी।

21. नियम बनाने की शक्ति—(1) शासन, सरकारी राजपत्र में अधिसूचना द्वारा इस अधिनियम के उद्देश्यों की पूर्ति के लिए नियम बना सकेगा।

(2) पूर्वोक्त शक्ति का विशेषकर और सामान्यः प्रतिकूल प्रभाव डाले बिना ऐसे नियमों में निम्नलिखित सभी या कुछ विषयों के लिए व्यवस्था हो सकेगी। अर्थात्

(क) वीर्य कोष के पंजीकरण के लिए तिथि का निर्धारण और आवेदन पत्र एवं भुगतान किये जाने वाले अपेक्षित शुल्क की राशि,

(ख) पंजीकरण प्रमाण-पत्र का निर्धारण,

(ग) वीर्य/डिम्ब दानकर्ता/प्राप्तकर्ता से संबंधित परिक्षणों का निर्धारण,

(घ) कोई अन्य मामला जिसके संबंध में इस अधिनियम में कोई व्यवस्था नहीं है या अपर्याप्त व्यवस्था है और शासन के अभिमत से व्यवस्था।

(3) शासन द्वारा निर्मित कोई नियम सरकारी राजपत्र में अपने पूर्व प्रकाशन की शर्त के अधीन होगा।

(4) इस अधिनियम के अंतर्गत बनाया गया प्रत्येक नियम बनाये जाने के बाद यथाशीघ्र विधान सभा के सदन के समक्ष रखा जायेगा और यदि सदन नियम में कोई आशोधन करने के लिए सहमत हो या सदन सहमत हो कि नियम न बनाया जाये तो तत्पश्चात् नियम केवल आशोधित रूप में ही प्रभावी होगा या इसका कोई प्रभाव नहीं होगा, जैसी भी स्थिति हो, तथापि ऐसा कोई भी आशोधन या निष्प्रभावन इस नियम के अन्तर्गत पहले किये गये की विधता पर प्रतिकूल प्रभाव डाले बिना रहेगा।

आर. टी. एल. डिसूजा, अवर सचिव (विधायी कार्य)

DEPARTMENT OF LAW, JUSTICE & LEGISLATIVE AFFAIRS

NOTIFICATION

Delhi, the 26th December, 1996

No. F. 13/12/96/L.A./575.—The following Act of the Legislative Assembly received the assent of the President of India on 30th November, 1996 and is hereby published for general information:—

THE DELHI ARTIFICIAL INSEMINATION (HUMAN) ACT, 1995 (DELHI ACT NO. 12 OF 1996)

"As passed by the Legislative Assembly of the National Capital Territory of Delhi

AN ACT

to provide for the regulation of donation, sale and supply of human semen and ovum for the purpose of artificial insemination and for matters connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Fortysixth Year of the Republic of India as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Delhi Artificial Insemination (Human) Act, 1995.

(2) It extends to the whole of the National Capital Territory of Delhi.

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

2. **Definitions.**—In this Act, unless the context otherwise requires:—

(a) "Delhi" means the National Capital Territory of Delhi;

(b) "donor" means the donor of semen, in the case of a male and of ovum, in the case of a female;

(c) "Government" means the Government of the National Capital Territory of Delhi;

(d) "Government Hospital" means any hospital established or maintained by the Government, or the Municipal Corporation of Delhi, or the New Delhi Municipal Council; performing the function of artificial insemination and includes any other hospital which may be declared by the Government, by notification in the official Gazette, to be a Government hospital for the purposes of this Act;

(e) "Hospital" means any premises including a maternity home, nursing home, hospital or any other place not established or maintained by Government funds, used or intended to be used for storage, supply or artificial insemination of semen;

(f) "Qualified Medical Practitioner" means a medical practitioner registered in any State or Union Territory in India under a law for the registration of medical practitioners;

(g) "Registration" means the registration under section 3 of this Act and the expression "registered" shall be construed accordingly.

(h) "Semen" wherever it occurs in this Act, means the semen or ovum of male and female human being, as the case may be;

(i) "Semen Bank" means any premises used or intended to be used for storage, sale donation, or supply of semen;

(j) "Supervisory Authority" means the Director of Health services, Government of National Capital Territory of Delhi.

3. **Prohibition to carry on semen bank without registration.**—No person shall carry on a semen bank in Delhi unless he has been duly registered in respect of such semen bank and the registration in respect thereof has not been cancelled under section 7 of this Act.

4. **Registration of semen banks.**—(1) Every person intending to carry on a semen bank in Delhi shall make, every year, an application for registration or the renewal thereof, to the Supervisory Authority:

Provided that in case of a semen bank which is in existence at the date of the commencement of this Act, an application for registration under this Act, shall be made within three months from the date of such commencement.

(2) Every application for registration or renewal of registration shall be made on such date and in such form and shall be accompanied by such fee, as may be prescribed.

5. **Certificate of registration.**—(1) Subject to the provisions of this Act and the rules made thereunder, the Supervisory Authority shall, on receipt of an application for registration, register the applicant in respect of the semen bank named in the application and issue to him a certificate of registration in the prescribed form:

Provided that the Supervisory Authority may refuse to register the applicant if it is satisfied.—

(a) that the applicant or any person employed by him at the semen bank, is not a fit person to carry on or to be employed at the semen bank named in the application; or

(b) that it does not have the qualified staff or equipment to carry out the prescribed tests of the donor/recipient or to store the semen; or

(c) that for reasons connected with the situation, the construction, staff or equipment of the semen bank or any premises used in connection therewith, is or are not fit to be used for semen bank or such description as the semen bank mentioned in application or that the semen bank or premises is or are used or to be used for purposes which are, in any way, improper, or undesirable in the case of such semen bank.

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6. **Punishment for carrying on semen bank without registration.**—Whoever contravenes the provisions of section 3 shall be punishable with fine, which may extend to five thousand rupees and in the case of second or subsequent offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees.

7. **Cancellation of registration.**—Subject to the provisions of this Act, the Supervisory Authority may, at any time, cancel the registration of a person in respect of any semen bank on any ground which would entitle it to refuse an application for the registration of that person in respect of that semen bank or on the ground that the person has been convicted of an offence under this Act or that any other person has been convicted of such an offence in respect of that semen bank.

8. **Notice of refusal or of cancellation of registration and appeals.**—(1) Before making an order refusing an application for registration or an order cancelling any registration, the Supervisory Authority shall give to the applicant or to the person registered, as the case may be, not less than one month's notice of its intention to make such an order, and every such notice shall state the grounds on which the Supervisory Authority intends to make the order and shall, before making the order, give him (or person or by a representative) an opportunity of showing cause why the order should not be made.

(2) If the Supervisory Authority, after giving the applicant or the person registered, an opportunity of showing cause as aforesaid, decides to refuse the application for registration or to cancel the registration, as the case may be, it shall make an order to that effect and shall send a copy of the order by registered post to the applicant or the person registered.

(3) Any person aggrieved by an order refusing an application for registration or cancelling any registration may, within a month after the date on which the copy of the order was sent to him, appeal to the Government against such order of refusal. The decision of the Government or any such appeal shall be final.

(4) No such order shall come into force until after the expiration of a month from the date on which it was made or where notice of appeal is given against it, until the appeal has been decided or withdrawn.

9. **Inspection of semen banks and hospitals.**—(1) The Supervisory Authority or any officer empowered by it in this behalf may, subject to such general or special orders as may be made by the Government, enter and inspect any premises which are used or which the Supervisory Authority or the officer empowered by it has reasonable cause to believe that such premises may be used for the purpose of semen bank and may also enter Government hospital or any hospital and inspect any records required to be kept there in accordance with the provisions of this Act.

(2) If any person refuses to allow the Supervisory Authority or the officer empowered by it to enter or inspect any such premises or Government hospital or hospital as aforesaid, or to inspect any such records aforesaid or obstructs the Supervisory Authority or the officer empowered by it in the execution of the powers under this section he shall be guilty of an offence under this Act.

10. **Donor to be tested before allowed to donate.**—(1) The semen bank before accepting the semen for artificial insemination shall test the donor for presence of HIV 1 and 2 antibodies by using a highly sensitive ELISA Kit and if found negative, only then, the donor shall be allowed to donate.

Explanation : The expression "HIV 1 and 2, ELISA Kit or ELISA Test" and "HIV" used in this section or in other sections of this Act denote respectively "Human Immune Deficiency Virus Type 1 and Type 2", "Enzyme Linked Immunosorbent Kit or Enzyme Linked Immune-sorbent Assay Test" and "Human Immune Deficiency Virus".

(2) The donor shall be screened for HIV surface antigen and if found negative, only then, the donor shall be allowed to donate.

(3) The semen bank shall keep complete bio-data, including mark of identification, of the donor.

11. **Storage of donated semen before use.**—The donated semen shall be stored either by cryo preservation of liquid nitrogen freezing or any other safe method for a period of minimum three months in order to exclude window period of HIV 1 and 2 infection in the donor.

12. **Second test on donor before use of donated semen.**—At the end of three months, a second ELISA Test shall, by the same method, be performed on the donor.

13. **Use of donated semen.**—If, after conducting of necessary test, the donor is found fit, only then, the semen shall be used.

14. **Duties of qualified medical practitioner/Government hospitals, etc. performing artificial insemination.**—The qualified medical practitioner or Government hospital or hospital or the semen bank performing artificial insemination, as the case may be, shall—

- (a) keep complete record of the bio-data including mark of identification of the donor and the recipient of the semen or ovum;
- (b) test the recipient for "HIV 1 and 2" and sexually transmitted diseases before performing artificial insemination;
- (c) seek the written consent of the husband and the wife, seeking artificial insemination;
- (d) seek the written consent of the donor and the recipient and their spouse, in case of requests of semen or ovum from specified donor/recipient;
- (e) not segregate the XX or XY chromosomes for artificial insemination.

Explanation.—The letters "XX" and "XY" used in this clause denote "female sex" and "male sex" respectively;

- (f) maintain secrecy about the identity of the donor and the recipient of the semen/ovum;
- (g) seek the written consent of the recipient for using the semen on the basis of only one ELISA Test being negative where facilities for cryo-preservation and liquid nitrogen for semen are not available.

Power to call for information or to seize articles.—If the Supervisory Authority has reason to believe that any of the provisions of this Act is being violated, he may call for any information or may seize any article, medicine or any other related things, admission register or other document maintained/kept or found at the place.

General provision for punishment of offences.—Whoever contravenes any provision of this Act or of any rule or order or notification made thereunder shall, if no punishment is provided for the offence, be punishable for the first offence with fine which may extend to five hundred rupees, and for second or subsequent offence with fine which may extend to two thousand rupees.

Punishment for contravention of provisions of section 10, 11, 12, 13 or 14.—Whoever contravenes any of the provisions of section 10, 11, 12, 13 or 14 of this Act shall be punishable with imprisonment for a term which may extend to three months and with minimum fine of five thousand rupees.

Court competent to try offences under this Act and take cognizance of offences.—(1) No court other than the court of Metropolitan Magistrate shall take cognizance of, and try an offence under this Act.

(2) No court shall take cognizance of any offence under this Act except on a complaint in writing of the Supervisory Authority or any Officer authorised by it, in writing, in this behalf.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), offences under this Act shall be non-cognizable and bailable.

Power to delegate.—The Government may, by notification in the Official Gazette, direct that any power exercisable by the Supervisory Authority under this Act, may also be exercised by such officer as may be mentioned therein, subject to such conditions, if any, as may be specified therein.

Protection of action taken in good faith.—No suit, prosecution, or other legal proceedings shall lie against any officer, or the Supervisory Authority or Government for anything which is in good faith done or intended to be done in pursuance of this Act.

Power to make rules.—(1) The 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) prescription of date and form of application and the fee required to be paid for registration of semen banks;
- (b) prescription of form of certificate of registration;
- (c) prescription of tests in respect of donors/recipients;
- (d) any other matter in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Government, necessary.

(3) Any rule made by the Government shall be subject to previous publication thereof in the Official Gazette.

(4) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly and the House agrees in making any modifications in the rule or the House agrees that the rule should not be made, the rule shall nevertheless have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification shall be without prejudice to the validity of anything previously done under that rule.

R.T.L. D'SOUZA, Under Secy. (LA).