



The Jammu and Kashmir Medical Termination of Pregnancy Act, 1974

Act 23 of 1974

Keyword(s):

Guardian, Lunatic, Minor, Registered Medical Practitioner

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**THE JAMMU AND KASHMIR MEDICAL TERMINATION OF
PREGNANCY ACT, 1974**

ACT NO. XXIII OF 1974

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ACT NO. XXIII OF 1974

[Received the assent of the Governor on 29th October, 1974 and published in Government Gazette dated 31st October, 1974 (Extraordinary.)]

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

Enacted by the Jammu and Kashmir State Legislature in the Twenty-fifth year of the Republic of India as follows :-

1. Short title and commencement.—(1) This Act may be called the Jammu and Kashmir Medical Termination of Pregnancy Act, 1974.

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

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

(a) "guardian" means a person having the care of the person of a minor or a lunatic;

(b) "Lunatic" has the meaning assigned to it in the Lunacy Act, for the time being in force ;

(c) "minor" means a person who under the provisions of the Majority Act, Samvat 1977 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 and whose name has been entered in a State Medical Register and who has such experience or training in gynaecology, and obstetrics as may be prescribed by rules made under this Act.

3. When pregnancies may be terminated by registered medical practitioners.—(1) Notwithstanding anything contained in the State Ranbir Penal Code, Samvat 1989, 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 could involve a risk to the life of pregnant woman or of grave injury to her physical or mental health ; or

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

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

Explanation II.—Where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such un-wanted 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 lunatic, shall be terminated except with the consent in writing of her guardian.

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

(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 the Government, or

(b) a place for the time being approved for the purpose of this Act by the Government.

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

(2) Notwithstanding anything contained in the State Ranbir Penal Code, Samvat 1989, 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.

6. **Power to make rules.**—(1) The Government may, by notification in the Government 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.

(b) the procedure in which opinion referred to in sub-section (2) of section 3, is to be certified by a registered medical practitioner

or practitioners and the form, preservation or disposal of such certificates ;

(c) the manner in which intimation shall be given by any registered medical practitioner who terminates a pregnancy, of such termination and such other information as may be specified ;

(d) prohibition regarding the disclosure of information or intimation ;

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

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

(4) Every rule made by the Government under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session and if, before the expiry of the session in which it is also laid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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