

TRIPURA CLINICAL ESTABLISHMENTS ACT, 1976

(Tripura Act No. 12 of 1976)

An Act to provide for the registration of clinical establishments and the matter connected therewith.

Be it enacted by the Legislative Assembly of Tripura in the Twenty-seventh Year of the Republic of India as follows:

1. Short title, extent and commencement.—(1) This Act may be called the Tripura Clinical Establishments Act, 1976.

(2) It extends to the whole of the State of Tripura.

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

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

(a) “clinical establishment” means a nursing home, a physical therapy establishment, a clinical laboratory or an establishment analogous to any of them, by whatever name called ;

(b) “clinical laboratory” mean; an establishment where—

(i) biological, pathological, bacteriological, radiological, micro-scope, chemical or other tests ; examination or analysis, or

(ii) the preparation of cultures, vaccines, serums or other biological or bacteriological products, in connection with the diagnosis of treatment of disease, are or is usually carried on;

(c) “maternity home” means an establishment where women are usually received or accommodated or both for the purpose of confinement and ante-natal and post-natal care in connection with child birth;

(d) “nursing home” means an establishment where person suffering from illness, injury or infirmity whether of body or mind are usually received or accommodated or both for the purpose of nursing and treatment and includes a maternity home ;

(e) “physical therapy establishment” means an establishment where persons are usually treated by physical means such as massage, electrotherapy, hydrotherapy, remedial gymnastics or the like;

(f) “prescribed” means prescribed by rules made under this Act;

(g) “qualified medical practitioner” means a medical practitioner registered in any State in India under a law for the registration of medical practitioner ;

(h) “qualified midwife” means a midwife registered in any State in India under a law for the registration of midwives;

(i) “qualified nurse” means a nurse registered in any State in India under a law for the registration of nurses;

(j) “qualified pathologist” means a medical practitioner with required qualification in pathology registered in any State in India under a law for the registration of medical practitioners ;

(k) “qualified radiologist” means a medical practitioner with requirement qualification in Radiology registered in any State in India under a law for the registration of medical practitioners ;

(l) “register” means a register under Section 5 of this Act and the expression “registered” and “registration” shall be construed accordingly;

(m) “rules” means rules made under this Act;

(n) “supervising authority” means the person or authority appointed by the State Government by notification in the Official Gazette, to perform all or any of the functions of the supervising authority under this Act.

3. Clinical establishment not to be kept or carried on without registration.—No person shall keep or carry on a clinical establishment without being registered in respect thereof and except under and in accordance with the terms of licence granted therefor :

Provided that nothing in this section shall apply in case of clinical establishment which is in existence at the date of the commencement of this Act, for a period of three months from such date of if an application for registration is made within that period in accordance with the provisions of Section 4 until such application is finally disposed of.

4. Application for registration.—(1) Every person intending to carry on a clinical establishment shall make every year an application for registration or the renewal of registration to the Supervising Authority:

Provided that in the case of a clinical establishment in existence at the date of the commencement of this Act an application for registration shall be made within three months from such date.

(2) Every application for registration or the 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. Registration.—(1) Subject to the provisions of this Act and the rules, the supervising authority shall, on the receipt of an application for registration, register the applicant in respect of the clinical establishment named in the

application and issue to him a certificate of registration in the prescribed form:

Provided that the supervising authority may refuse to register the applicant if it is satisfied—

- (a) that the applicant, or any person employed by him at the clinical establishment is not a fit person to carry on or to be employed at a clinical establishment of such description as the clinical establishment named in the application; or
- (b) that the clinical establishment is not under the supervision of a person who is not a qualified medical practitioner and he or a qualified nurse is not a resident in the establishment or that there is not a proper proportion of qualified nurses among the persons having the superintendence of or employed in the nursing of the patients in the establishment, or
- (c) that in the case of maternity home it has not got on its staff a qualified midwife and qualified medical practitioner; or
- (d) that for persons connected with the situation, construction, accommodation, staff or equipment, the nursing home or any premises used in connection therewith is or are not fit to be used for a nursing home of such a description as the clinical establishment mentioned in the application or that the nursing home, or any premises is or are used or to be used for purposes which are in any way improper or undesirable in the case of such clinical establishment.

(2) A certificate of registration issued under this section shall, subject to the provisions of Section 7 as in force and shall be valid until the 31st day of March next following the date on which such certificate was issued.

(3) The certificate of registration issued in respect of a clinical establishment shall be kept affixed in a conspicuous place in the clinical establishment.

6. Penalty for non-registration.—Whoever contravenes the provisions of Section 3 shall, on conviction, be punished with fine which may extend to five hundred rupees, or in the case of a second or subsequent offence, with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

7. Cancellation of registration.—Subject to the provisions of this Act the supervising authority may at any time cancel the registration of a person in respect of a clinical establishment on any ground which would entitle it to refuse an application from the registration or that the person has been convicted of such an offence in respect of that establishment.

8. Notice of refusal or of cancellation of registration.—(1) Before making an order refusing application for registration or an order cancelling any registration, the supervising authority shall give to the applicant or to the person registered, as the case may be, not less than one calendar month's notice of its intention to make such an order, and every such notice shall state the ground on which the supervising authority intends to make the order and shall contain an information that if within a calendar month after the receipt of the notice the applicant or the person registered informs the authorities in writing that he desires so to do, the supervising authority shall, before making the order, give him (in person or by a representative) an opportunity of showing cause why the order should not be made.

(2) If the supervising 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 calendar month after the date on which the copy of the order was sent to him, appeal to the State Government against each order of refusal. The decision of the State Government on any such appeal shall be final.

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

9. Inspection of clinical establishment.—(1) The supervising authority or any officer empowered by it in this behalf may, subject to such general or special order as may be made by the State Government, enter and inspect any premises which are used or which the supervising authority or the officer empowered by it has reasonable cause to believe to be used for the purpose of clinical establishment and inspect records required to be kept in accordance with the provisions of this Act.

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

10. Credit of fees and fines.—Any fees received or fines paid under this Act shall be credited to the Consolidated Fund of the State.

11. Expenses of supervising authority.—All expenses incurred by the supervising authority under and for the purpose of this Act and the rules made thereunder may be paid out of the Consolidated Fund of the State.

12. Penalty for offences under the Act.—Whoever contravenes any of the provisions of this Act or of any rules shall, if no other penalty is elsewhere provided in this Act or the rules for such contravention, on conviction, be punished with fine which may extend to one hundred rupees and in the case of continuing offence to a further fine of twenty-five rupees in respect of each day on which the offence continues after such conviction.

13. Offences by corporations.—If the person contravening any of the provisions of this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company, for the conduct of the Company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

14. Court competent to try offences under this Act.—No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

15. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

16. Power to make rules.—(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters namely:

- (a) the form of the application to be made under Section 4, the date on which such application is to be made and the fees to be paid for such registration or renewal of registration ;
- (b) the form of the certificate of registration to be issued under Section 5;
- (c) the records to be kept of the patients received into a clinical establishment and in the case of the maternity home of miscarriages, abortions or still births occurring in the nursing home and of the children born therein and of the children born who are removed from the maternity home otherwise than to the custody or care of any patient, guardian or relative;
- (d) the notification required to be given of any death occurring in the clinical establishment;
- (e) for any of the matters which has to be, or may be prescribed.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the session aforesaid the Legislative Assembly makes any modification in the rule or decides that the rule shall 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.

17. Savings.—Nothing in this Act shall apply to—

- (a) any clinical establishment carried on by Government or a local authority; and
 - (b) any asylum for lunatics or patients suffering from mental diseases within the meaning of the Indian Lunacy Act, 1912.
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