

PART I

DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB

Notification

The 13th May, 1994

No. 16-Leg./94.—The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 28th April, 1994 and is hereby published for general information :—

THE PUNJAB PRE-NATAL DIAGNOSTIC TECHNIQUES
(CONTROL AND REGULATION) ACT, 1994

(Punjab Act No. 16 of 1994)

AN

ACT

to provide for the control and regulation of the medical or scientific techniques of pre-natal diagnosis used solely for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital anomalies or sex linked disorders and for the prevention of the misuse of these techniques for the purpose of pre-natal sex determination leading to female foeticide ; and for matters connected therewith or incidental thereto.

BE it enacted by the Legislature of State of Punjab in the Forty-fifth Year of the Republic of India as follows :—

CHAPTER I

Preliminary

1. (1) This Act may be called the Punjab Pre-natal Diagnostic Techniques (Control and Regulation) Act, 1994.

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

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

Short title, extent
and commence-
ment.

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

Definitions.

(a) "advertisement" means any notice, circular, label, wrapper, printed matter or other document on display and also includes any announcement or visible representation made with the help of light, sound, smoke, gas, cinematograph films or video taps ;

(b) "Authority" means the Authority constituted by the State Government under section 6 ;

(c) "District Vigilance Committee" means a Committee appointed as such under section 16 ;

(d) "genetic clinic" means a place registered as such under this Act for the purpose of carrying out the activities of a genetic counselling centre or as a genetic laboratory ;

- (e) "genetic counselling centre" means an institute, hospital, nursing home or any other place by whatever name called and registered as such under this Act for the purpose of,—
- (i) providing genetic counselling ;
 - (ii) performing obstetrical or gynaecological procedures ; and
 - (iii) taking samples of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman for being sent to a genetic clinic or genetic laboratory for pre-natal diagnostic test ;
- (f) "genetic laboratory" means a place registered as such under this Act for the purpose of carrying out the analysis or tests of samples received from genetic clinics or genetic counselling centres for pre-natal diagnostic tests ;
- (g) "gynaecologist" means a person having a post-graduate qualification in gynaecology after obtaining the M.B.B.S. degree or any other degree equivalent thereto ;
- (h) "medical geneticist" means a person who has obtained a degree or diploma or certificate in medical genetics in the field of pre-natal diagnostic techniques or has at least two years working experience in that field after obtaining any of the following degrees, namely:—
- (i) the M.B.B.S. degree or any other degree equivalent thereto ;
or
 - (ii) the M.Sc. or Ph. D. in Biological Sciences or any other degree equivalent thereto ;
- (i) "medical institution" means a hospital, dispensary or health centre by whatever name called and includes a clinic, laboratory or any other place used for carrying out sex determination tests ;
- (j) "pre-natal diagnostic procedures" means all gynaecological or obstetrical or medical procedures such as foetoscopy, taking or removing samples of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman for being sent to a genetic clinic or genetic laboratory for pre-natal diagnostic testing ;
- (k) "pre-natal diagnostic technique" includes pre-natal diagnostic procedures and pre-natal diagnostic tests ;
- (l) "pre-natal diagnostic test" means a test or analysis of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman carried out in a genetic clinic or genetic laboratory in order to detect genetic or metabolic disorders or chromosomal abnormalities or certain congenital anomalies or haemoglobinopathies or sex-linked diseases ;
- (m) "prescribed" means prescribed by rules made under this Act ;
- (n) "registered medical practitioner" means a medical practitioner who possesses any of the recognised medical qualifications as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956 (Central Act 102 of 1956) and whose

name has been entered in the Punjab Medical Register prepared or deemed to be prepared and maintained under the Punjab Medical Registration Act, 1916 (Punjab Act 2 of 1916) ;

- (o) "section" means a section of this Act ;
- (p) "State Vigilance Committee" means the Committee appointed as such by the State Government under section 13 ;
- (q) "voluntary organisation" means any voluntary organisation working in the field of health or women welfare or human rights and has been recognised as such by the State Government for the purpose of this Act.

CHAPTER II

Registration and control of genetic clinics, genetic laboratories and genetic counselling centres

3. (1) No person shall carry out or associate or assist in carrying out activities relating to the pre-natal diagnostic techniques with the help of pre-natal diagnostic procedures in any genetic clinic, genetic laboratory or genetic counselling centres or any other place unless it is registered under this Act.

Registration of genetic clinics, genetic laboratories and genetic counselling centres.

(2) No person shall employ or utilise services, whether in honorary capacity or on payment basis of any person in any genetic clinic, genetic laboratory or genetic counselling centre unless the person so employed possesses the prescribed qualifications.

(3) No medical geneticist or a medical practitioner or any other person shall carry out or assist in carrying out or cause to be carried out either himself or through his assistants, agents or associates any pre-natal diagnostic techniques at a place other than genetic clinic, genetic laboratory or genetic counselling centre registered under this Act.

4. (1) No person shall use or cause to be used any pre-natal diagnostic procedures or pre-natal diagnostic techniques except for the purpose and subject to the conditions specified in sub-sections (2) and (3).

Regulation of pre-natal diagnostic procedures and pre-natal diagnostic techniques.

(2) The pre-natal diagnostic procedures or pre-natal diagnostic techniques shall be carried out solely for the purpose of detection of any one or more of the following abnormalities and diseases, namely:—

- (i) the chromosomal abnormalities;
- (ii) the genetic metabolic disease ;
- (iii) the haemoglobinopathies ;
- (iv) the sex-linked genetic disease ;
- (v) the congenital abnormalities ; and
- (vi) any other abnormalities or diseases as may be declared by the Authority for the purposes of this section.

(3) The pre-natal diagnostic procedures or pre-natal diagnostic techniques shall not be used or carried out unless the person qualified to do so is satisfied that one or more of the following conditions are fulfilled in each case, namely:—

- (i) the age of the pregnant woman is above thirty-five years ;
- (ii) the pregnant woman has had history of two or more abortions or foetal loss ;
- (iii) the pregnant woman has the previous history of exposure of potentially teratogenic drugs, radiation, infection or hazardous chemicals ;
- (iv) there is a family history of mental retardation or physical deformities such as spastic or deafmute child or any other genetic disease ; and
- (v) any other condition as may be specified by the Authority.

(4) Before carrying out the pre-natal diagnostic procedures or the pre-natal diagnostic techniques, the person qualified to do so shall obtain a written consent of the pregnant woman in the prescribed form after clearly explaining to her all possible side-effects and after-effects of such procedures or techniques.

Prohibition of pre-natal diagnostic procedures and techniques for certain purposes.

5. (1) No person shall use any pre-natal diagnostic procedures or pre-natal diagnostic techniques including ultrasonography for the purpose of indicating the sex of a foetus with or without the possible object of female foeticide.

(2) No person shall give advertisement in any manner regarding the facilities or pre-natal prediction of sex available at any genetic clinic, genetic laboratory or genetic counselling centre.

(3) No person shall seek to get the pre-natal diagnostic procedures done or pre-natal diagnostic techniques carried out for a purpose other than the purpose specified in sub-section (2) of section 4.

CHAPTER III

State Supervisory Authority

Constitution of the Authority.

6. (1) The State Government, shall, as soon as may be, after the commencement of this Act, by notification, constitute an authority (hereinafter referred to as the Authority) with such designation as it may deem fit to exercise functions assigned to it under this Act.

(2) The Authority constituted under sub-section (1) shall be subject to the superintendence, direction and control of the State Government.

(3) The Authority constituted under sub-section (1) shall consist of the following members, namely:—

- (i) the Director, Health and Family Welfare, Punjab, who shall be the *ex-officio* Chairman;
- (ii) the State Family Welfare Officer, Punjab, who shall be the *ex-officio* Secretary ;
- (iii) two representatives of the voluntary organisations ;
- (iv) the Director of Medical Education and Research, Punjab or his representative not below the rank of a Deputy Director of Medical Education and Research, Punjab;
- (v) a gynaecologist ;

vi) a medical geneticist;

(vii) a representative of the Indian Council of Medical Research.

(4) The members referred to in clauses (iii), (v), (vi) and (vii) of sub-section (3) shall be nominated by the State Government.

(5) The Authority may invite at its meeting any Civil Surgeon of a District as an invitee-member whenever it thinks necessary.

7. (1) The Authority shall meet as and when it deems necessary but not less than two meetings of the Authority shall be held every year.

Meeting of the
Authority.

(2) The Authority may frame regulations for conduct of its day to day business.

(3) All decisions in the meetings of the Authority shall be taken by a simple majority of members present at a meeting and the quorum for a meeting shall be of five including the Chairman.

(4) No act or decision of the Authority shall be vitiated or held as invalid merely on the ground of existence of any vacancy amongst its members or by reason of defect or irregularity in its constitution or any irregularity in its procedure not affecting the merits of the case.

(5) In the event of occurrence of a vacancy in the membership of the Authority as a result of death, resignation, removal or otherwise, the vacancy shall be filled expeditiously by the State Government and until the vacancy is so filled, the remaining members shall continue to function as if no vacancy has occurred.

(6) The term of office and other terms and conditions of the non-official members shall be such as the State Government may, from time to time, determine.

8. (1) The Authority shall, subject to the general directions of the State Government perform all or any of the following functions, namely :—

Functions of the
Authority.

(i) to advise the State Government on policy matters relating to the use of pre-natal diagnostic procedures and pre-natal diagnostic techniques ;

(ii) to make recommendations to the State Government, keeping in view the progress in science, evolution of new procedures and techniques in the field of medical and other scientific techniques of pre-natal diagnosis;

- (iii) to consider applications made to it under section 9 for the grant, or, under section 10 for the renewal of, certificates of registration in respect of genetic clinics, genetic laboratories and genetic counselling centres;
- (iv) to consider complaints made to it under this Act and the rules made thereunder and to take action for the suspension or cancellation of certificates of registration under section 11;
- (v) to issue guidelines for the standards to be maintained in the genetic clinics, genetic laboratories and genetic counselling centres;
- (vi) to supervise and monitor the performance of genetic clinics, genetic laboratories and genetic counselling centres ;
- (vii) to evolve a code of conduct for the persons who own, manage or run the genetic clinics, genetic centres and for the persons employed therein;
- (viii) to create public awareness against the practice of female foeticide which results in discrimination against women even from the pre-natal stage;
- (ix) generally to supervise the implementation of the provisions of this Act and the rules made thereunder ; and
- (x) to perform such other functions as the State Government may specify.

(2) In discharging its functions under this Act, the Authority shall have all the powers of a civil court trying a suit and, in particular, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person, and examining him on oath or affirmation;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits; and
- (d) issuing commissions for the examination of witnesses and documents.

CHAPTER IV

REGISTRATION OF GENETIC CLINICS, GENETIC LABORATORIES AND GENETIC COUNSELLING CENTRES

9. (1) Every person who is running a genetic clinic, genetic laboratory or genetic counselling centre and is engaged, either partly or exclusively, in pre-natal diagnostic techniques for the purpose specified in sub-section (2) of section 4 shall, within sixty days from such date as the State Government may, by notification, appoint in this behalf being a date not earlier than the date of the constitution of the Authority make an application to the Authority for the registration of such genetic clinic, genetic laboratory or genetic counselling centre, as the case may be.

Registration of
genetic clinics
genetic labora-
tories and
genetic counsel-
ling centres.

(2) An application under sub-section (1) shall be made in such form and manner and shall be accompanied by such fees as may be prescribed.

(3) Subject to the provisions of section 5, every person who is running a genetic clinic, genetic laboratory or genetic counselling centre and is engaged in pre-natal diagnostic techniques for the purpose specified in sub-section (2) of section 4 on the date appointed under sub-section (1) shall cease to carry out any pre-natal diagnostic techniques on the expiry of six months from such date unless he has already made an application for registration and certificate of registration has been granted to him before that date in respect of such clinic, laboratory or centre.

(4) No person shall open a new genetic clinic, genetic laboratory or genetic counselling centre after the commencement of this Act, unless it is got registered under this Act.

10. (1) On receipt of an application under section 9, the Authority shall, after holding an inquiry, if necessary, and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules made thereunder, grant a certificate of registration in the prescribed form to the applicant in respect of his genetic clinic or genetic laboratory or genetic counselling centre, as the case may be.

Certificate of
registration.

(2) If it is found that the applicant does not comply with the requirements of this Act and the rules made thereunder, the Authority may give reasonable time to the applicant to effect such compliance.

(3) If, after the inquiry, and giving an opportunity to the applicant of being heard, the Authority is satisfied that the applicant has not complied with the requirements of this Act, and the rules made thereunder, it shall reject the application for registration after giving reasons therefor.

(4) Every certificate of registration granted under sub-section (1) shall be renewed in such manner and after such period and on payment of such fees as may be prescribed.

(5) The certificate of registration issued under sub-section (1) shall be displayed at some conspicuous place in the genetic clinic, genetic laboratory or genetic counselling centre, as the case may be.

Cancellation
or suspension
of certificate
of registration.

11. (1) The Authority may either *suo moto* or on receipt of a report from the State Vigilance Committee or a District Vigilance Committee, shall issue a notice to the persons running the genetic clinic, genetic laboratory or genetic counselling centre in respect of which certificate of registration has been granted under section 10, to show cause why the certificate of registration should not be suspended or cancelled for the reasons mentioned in the notice so issued.

(2) If, after giving a reasonable opportunity to the person on whom notice has been served under sub-section (1), the Authority is satisfied that there has been a breach of any of the provisions of this Act or the rules made thereunder, it may, without prejudice to any other action that it may take against him, suspend or cancel his certificate of registration for such period as it may think fit.

Appeal.

12. (1) Any person aggrieved by the decision of the Authority rejecting any application for the grant of certificate of registration under section 10 or cancelling or suspending any certificate of registration under section 11 of the Act may, within thirty days from the date of receipt of the decision, prefer an appeal before the State Government in the prescribed manner and the decision of the State Government on such appeal shall be final.

(2) If, no appeal against the decision of the Authority has been preferred under sub-section (1) or if the appeal so preferred has been rejected by the State Government, the copy of the decision of the Authority and also a copy of the decision of the State Government, if any, shall be forwarded by the Authority to the Punjab Medical Council established under section 5 of the Punjab Medical Registration Act, 1916 for taking suitable action against the Medical practitioner running the genetic clinics, genetic laboratories or genetic counselling centres in respect of which such decisions have been taken.

CHAPTER V

STATE VIGILANCE COMMITTEE AND DISTRICT VIGILANCE COMMITTEES

State Vigilance
Committee.

13. (1) On the commencement of this Act, or as soon thereafter as may be, the State Government shall appoint a State Vigilance Committee which shall consist of —

- (i) the Secretary of the Authority who shall be its Chairman ;
- (ii) two representatives of the Voluntary organisations ;
- (iii) the State Family Welfare Officer, Punjab ;
- (iv) a gynaecologist ;
- (v) a medical geneticist ; and
- (vi) a civil surgeon of a District.

(2) All the members referred to in sub-section (1) excepting the Chairman shall be nominated by the State Government.

14. The State Vigilance Committee shall, subject to the directions of the State Government and the Authority, perform all or any of the following functions, namely :—

Functions of
State Vigilance
Committee.

- (a) to pay periodic and surprising visits to the genetic clinics, genetic laboratories and genetic counselling centres with a view to check compliance of the provisions of this Act and the rules made thereunder;
- (b) to investigate complaints made by members of the public at large or by institutions or the complaints as appeared in the press about contravention of the provisions of this Act or the rules made thereunder;
- (c) to seize incriminating evidence or record for further administration or legal action;
- (d) to recommend to the Authority suspension or cancellation of certificates of registration granted under this Act in respect of genetic clinics, genetic laboratories or genetic counselling centres and to recommend prosecutions against the violations of the provisions of this Act and the rules made thereunder ;
- (e) to check operation of unauthorised genetic clinics, genetic laboratories and genetic counselling centres; and
- (f) to take such other actions as the Authority or the State Government may direct.

15. (1) The State Vigilance Committee shall hold the meetings as and when it considers necessary to conduct its business.

Meeting of State
Vigilance Com-
mittee.

(2) The State Vigilance Committee shall frame bye-laws for the conduct of its business.

(3) All decisions of the meetings of the State Vigilance Committee shall be taken by a simple majority of members present at such meetings.

(4) There shall be a quorum of four members including the Chairman for a meeting of the State Vigilance Committee.

(5) The decisions or actions of the State Vigilance Committee shall not be vitiated or held as invalid merely on the ground of vacancy or absence of any member.

16. (1) There shall be a District Vigilance Committee for each of the Districts.

District Vigilance
Committee.

(2) A District Vigilance Committee shall consist of the following members, namely :—

- (i) the Civil Surgeon of a District, *ex officio* Chairman ;
- (ii) the District Family Welfare Officer ;
- (iii) the District Health Officer ;

(iv) any Officer not below the rank of a Tehsildar having the powers of an Executive Magistrate nominated by the Collector of the district ;

(v) a gynaecologist ;

(vi) a medical geneticist ;

(vii) a representative of the women's welfare organisations ; and

(viii) a representative of any other voluntary organisation.

(3) The non-official members of the District Vigilance Committee shall be nominated by the Authority.

Meetings and
functions of
District Vigilance
Committees.

17. (1) All decisions at the meetings of the District Vigilance Committees shall be taken by a simple majority of members present at such meetings.

(2) There shall be a quorum of four members including the Chairman for a meeting of the District Vigilance Committee.

(3) The decision or any action of a District Vigilance Committee shall not be vitiated or held as invalid merely on the ground of a vacancy or absence of any member.

(4) The functions and powers of a District Vigilance Committee shall be the same as that of the State Vigilance Committee, which shall be discharged and exercised by it within the area of the District concerned.

Duration of
appointment of
non-official mem-
bers and their
allowances.

18. (1) The non-official members of the State Vigilance Committee and a District Vigilance Committee shall be appointed for a period of three years and after the expiry of the period of their appointment they shall be eligible for re-appointment.

(2) The non-official members of the State Vigilance Committee and the District Vigilance Committees shall be entitled to travelling allowance, sitting allowance and any other allowances at such rates as the State Government may, from time to time, determine.

CHAPTER VI

OFFENCES, PENALTIES AND PROCEDURE

Offences and
penalties.

19. (1) Any medical geneticist, gynaecologist, registered medical practitioner or any other person who is running a genetic clinic, genetic laboratory or genetic counselling centre or is employed in such clinic, laboratory or centre or who gives his services to or at such a clinic, laboratory or centre whether in an honorary capacity or otherwise, and who contravenes any of the provisions of this Act or the rules made thereunder shall, on conviction, be liable to be punished with imprisonment for a term which shall not be less than one year, but which may extend to three years, and with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees, or, with both :

Provided that the name of the medical geneticist, gynaecologist or registered medical practitioner who has been convicted by a court, shall be reported by the Authority to the Punjab Medical Council established under section 5 of the Punjab Medical Registration Act, 1916 for taking suitable action including that of suspension of his name from the Register of the Punjab Medical Council for a period of two years for the first offence and for permanent removal for any subsequent offence.

(2) Any person who seeks aid at a genetic clinic, genetic laboratory or genetic counselling centre of a medical geneticist or a gynaecologist or a medical practitioner or any other person for carrying out pre-natal diagnostic techniques on pregnant woman for any purpose other than the purpose specified in sub-section (2) of section 4 shall, on conviction, be liable to be punished with imprisonment for a term which shall not be less than one year, but which may extend to three years and with fine which shall not be less than one thousand rupees but which may extend to three thousand rupees or with both :

Provided that the court shall always presume, unless otherwise proved, that a woman who seeks such aid of pre-natal diagnostic techniques on herself has been compelled to do so by her husband or by any other member of his family who shall on conviction be liable to be punished for abetment of the offence under this sub-section for the same sentence and in that case the woman shall also be liable to be punished with imprisonment for a term which may extend to three months and to pay fine which may extend to five hundred rupees.

(3) Whoever contravenes any of the provisions of this Act or any rule or any direction issued thereunder, for which no penalty has elsewhere been provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both, and in the case of continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), the court may, for adequate and special reasons to be recorded in the judgement, impose sentence of imprisonment less than the minimum sentence that can be imposed under this Act.

20. (1) Where an offence under this Act has been committed by a company, every person who, at the time, the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in the 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.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director,

manager, secretary or other officer of the company such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate, and includes a firm or other association of individuals ; and

(b) “director” in relation to a firm means a partner in the firm.

Offences by Government Departments.

21. Where an offence under this Act has been committed by any Department of the State Government, the head of the medical institution, where the offence has been committed shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

Offences to be cognizable, non-bailable and non-compoundable.

22. Every offence punishable under sub-section (1) or sub-section (2) of section 19 shall be cognizable, non-bailable and non-compoundable.

Persons authorised to investigate.

23. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no police officer below the rank of a Deputy Superintendent of Police or a police officer possessing rank higher than that of a Deputy Superintendent of Police or a special designated police officer who is not below the rank of an Inspector of Police, shall investigate any offence punishable under this Act, unless he is authorised so to do by the State Government.

Cognizance of Offence.

24. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court inferior to that of Judicial Magistrate of the first class shall try any offence under this Act, except with the previous sanction of the State Government and on a complaint made by,—

(a) the Authority, State Vigilance Committee, or a District Vigilance Committee or any officer authorised in this behalf by the State Government;

(b) any person who has given notice of not less than sixty days, in the manner prescribed, to the Authority or the State Vigilance Committee or any District Vigilance Committee or an officer authorised as aforesaid, of the alleged offence and of his intention to make a complaint to the court.

(2) Where a complaint has been made under clause (b) of sub-section (1) the Court may, on demand by such a person direct the Authority or the State Vigilance Committee or the District Vigilance Committee to make available the relevant records in its possession to that person:

Provided that the Authority or Committee concerned may refuse to make any such record available to such person if the same is, in its opinion, against the public interest.

CHAPTER VII

MISCELLANEOUS

25. (1) All records, charts, forms, reports, consent letters and all other documents required to be maintained under this Act and the rules made thereunder shall be preserved for a period of two years or for such longer period as may be prescribed :

Maintenance of records.

Provided that if any criminal or other proceedings are instituted against any person running a genetic clinic, genetic laboratory or genetic counselling centre, the records and all other documents of such clinic, laboratory or centre, as the case may be, shall be preserved till the final disposal of such proceedings.

(2) All such records shall at all reasonable times be made available for inspection to the members of the Authority or members of the State Vigilance Committee or District Vigilance Committees or to any other person as may be authorised by the State Government in this behalf.

26. (1) If the Authority or the State Vigilance Committee or a District Vigilance Committee has reason to believe that any breach of the provisions of this Act or the rules made thereunder has been committed at any genetic clinic, genetic laboratory or a genetic counselling centre or that pre-natal diagnostic procedures or pre-natal diagnostic techniques are used for prediction of sex, the Chairman of the State Vigilance Committee or a District Vigilance Committee or any other member thereof duly authorised by the State Government, the Authority or the State Vigilance Committee or the District Vigilance Committee shall have the power to search the premises of such clinic, laboratory or centre and to seize such records and documents as may be necessary on granting a receipt for the same, and the records and documents so seized shall be retained by the Authority or by the State Vigilance Committee or the District Vigilance Committee, as the case may be, for so long a period as may be necessary in connection with any proceedings or for a prosecution under this Act.

Power to seize records.

(2) The provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings taken under sub-section (1) and the person taking such proceedings shall take the assistance of the police officer of the nearest police station, whenever necessary.

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27. No suit, prosecution or other legal proceeding shall lie against the State Government, the Authority, State Vigilance Committee or a District Vigilance Committee or any person acting under their authority for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Protection of action taken in good faith.

28. The State Government may exempt a genetic clinic, genetic laboratory or genetic counselling centre run by it or by any local authority from any or all of the provisions of this Act on the recommendation of the Authority to the effect that such an exemption is in public interest :

Power to exempt.

Provided that the exemption shall not be made with regard to the minimum qualifications of persons, minimum equipment necessary,

the standards to be maintained, and the code of conduct of persons working at the genetic clinics, genetic laboratories or genetic counselling centres.

Power to make rules.

29. (1) The State Government may, subject to the condition of previous publication in the Official Gazette, make rules for carrying out the purpose of this Act:

Provided that, if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the requirement of previous publication of any rule to be made under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for,—

- (i) the minimum qualifications of the person employed at a registered genetic clinic, genetic laboratory or genetic counselling centre;
- (ii) the form and manner of application for registration, records to be maintained, consent of a patient to be obtained at registered genetic clinic or genetic laboratory or genetic counselling centre;
- (iii) minimum equipments necessary at the genetic clinics or genetic laboratories or genetic counselling centres;
- (iv) the standards to be maintained at the genetic clinics or genetic laboratories or genetic counselling centres;
- (v) the code of conduct of persons working at the genetic clinics, genetic laboratories or genetic counselling centres;
- (vi) the manner in which an appeal may be preferred before the State Government against the decision of refusal, cancellation or suspension of certificate of registration;
- (vii) the duration of validity of registration, procedure of renewal of registration and fees to be charged for registration and renewal thereof;
- (viii) manner of and intervals at which a District Vigilance Committee shall report its decisions and actions to the State Vigilance Committee;
- (ix) the records, charts, reports and other documents to be maintained in genetic clinic, genetic laboratory or genetic counselling centre, period for which such records and document shall be maintained and preserved; and
- (x) any other matter that is required or may be prescribed under this Act.

(3) Every rule made under this section shall be laid as soon as may be after it is made before the House of the State Legislature while it is in session for a total period of ten 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 successive sessions aforesaid, the House agrees in making any modification in the rule or the House agrees 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 or omitted to be done under that rule.

AMARBIR SINGH GILL,

Secretary to Government of Punjab,
Department of Legal and Legislative Affairs.