



Laws on Women

Compendium

**Volume-I
(Acts & Rules)**

May 2014

**Government of Odisha
Women & Child Development Department**



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Foreword

Women play an important role in the development of society. But they are subjected to discrimination in the public as well as in the private domain. Therefore in order to strengthen the position of girls & women and to protect their interest, numerous legislations have been enacted from time to time to ensure that women enjoy the rights and entitlements enshrined in the constitution of India.

In this regard, the Acts and rules related to girls & women have been compiled by the Department of Women and Child Development. The Compendium will be helpful to all stakeholders working for the development of women.

This Compendium on Laws on Women comprises of two Volumes. Volume-I details the Acts & Rules (Central & State Specific) related to violence against women while the Volume-II is on Guidelines & notifications on laws on girls & women.

I extend my sincere thanks to all my team members for compiling the necessary information to develop it as a compendium.

Arti Ahuja

Commissioner-cum-Secretary
Department of Women and Child Development
Government of Odisha

Content

SI No	Topics	Pages
Section-I		
1	Dowry Prohibition	1
1.1	The Dowry Prohibition Act, 1961	
1.2	The Dowry Prohibition (Maintenance of lists of present to the Bride & Bridegroom) Rules, 1985	
1.3	The Orissa Dowry Prohibition Rules, 2000	
1.4	The Orissa Dowry Prohibition (Amendment) Rules, 2010	
2	Protection of Women from Domestic Violence	21
2.1	The Protection of Women from Domestic Violence Act, 2005	
2.2	The Protection of Women from Domestic Violence Rules, 2006	
3	Sexual Harassment of Women at Workplace	64
3.1	The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013	
3.2	The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Rules, 2013	
4	Anti-Trafficking	86
4.1	The Immoral Traffic (Prevention) Act, 1956	
4.2	The Prevention of Immoral Traffic (Orissa), Rules, 1959	
5	Indecent Representation of Women	122
5.1	The Indecent Representation of Women (Prohibition) Act, 1986	
5.2	The Indecent Representation of Women (Prohibition) Rules, 1987	
6	Prohibition of Child Marriage	128
6.1	The Prohibition of Child Marriage Act, 2006	
6.2	The Orissa Prohibition of Child Marriage Rules, 2009	
7	Pre-Conception & Pre-Natal Diagnostic Technique	140
7.1	Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994	
7.2	Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 - Rules	
7.3	Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2012	
8	Legal Services Authority	186
8.1	The Legal Services Authorities Act, 1987	
8.2	The Orissa State Legal Services Authority Regulation, 1996	
9	Odisha State Commission for Women	222
9.1	The Orissa State Commission for Women Act, 1993	
9.2	The Orissa State Commission for Women Rules, 2006	
10	Witch Hunting	238
10.1	The Odisha Prevention of Witch Hunting Bill, 2013	
Section-II		
11	Victim Compensation	242
11.1	The Odisha Victim Compensation Scheme, 2012	
11.2	The Odisha Victim Compensation (Amendment) Scheme, 2013	

Section-I

1. Dowry Prohibition

- 1.1. The Dowry Prohibition Act, 1961
 - 1.2. The Dowry Prohibition (Maintenance of lists of present to the Bride & Bridegroom) Rules, 1985
 - 1.3. The Dowry Orissa Dowry Prohibition Rules, 2000
 - 1.4. The Orissa Dowry Prohibition (Amendment) Rules, 2010
-

THE DOWRY PROHIBITION ACT, 1961

(Act No. 28 of 1961)

(20th May, 1961)

An Act to prohibit the giving or taking of dowry

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows:

1. **Short title, extent and commencement** - (1) This Act may be called the Dowry Prohibition Act, 1961.

It extends to the whole of India except the State of Jammu and Kashmir.

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

2. **Definition of 'dowry'** - In this act, "dowry" means any property or valuable security given or agreed to be given either directly or indirectly-

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person;

at or before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Explanation II - The expression 'valuable security' has the same meaning as in Sec. 30 of the Indian Penal Code (45 of 1860).

3. **Penalty for giving or taking dowry** - (1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with the fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years.

*** Explanation I omitted by Sec.2 w.e.f 2nd October, 1985

- (2) Nothing in sub-section (1) shall apply to or, in relation to,-

Presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf):

Provided that such presents are entered in list maintained in accordance with rule made under this Act;

Presents which are given at the time of marriage to the bridegroom (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with rules made under this Act;

Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.

- 4. Penalty for demanding dowry** - If any person demands directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which may extend to ten thousand rupees:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.

4-A. Ban on advertisement - If any person-

- (a) offers, through any advertisement in any newspaper, periodical, journal or through any other media any share in his property or of any money or both as a share in any business or other interest as consideration for the marriage of his son or daughter or any other relative,
- (b) prints or publishes or circulates any advertisement referred to Cl. (a), he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to five years, or with fine which may extend to fifteen thousand rupees:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than six months.

5. Agreement for giving or taking dowry to be void -

Any agreement for the giving or taking of dowry shall be void.

6. Dowry to be for the benefit of the wife or heirs -

- (1) Where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman -
 - (a) if the dowry was received before marriage, within three months after the date of marriage; or
 - (b) if the dowry was received at the time of or after the marriage within three months after the date of its receipt; or
 - (c) if the dowry was received when the woman was a minor, within three months after she has attained the age of eighteen years, and pending such transfer, shall hold it in trust for the benefit of the woman.
- (2) If any person fails to transfer any property as required by sub-section (1) within the time limit specified therefor or as required by sub-section(3), he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend two years or with fine which shall not be less than five thousand rupees, but which may extend to ten thousand rupees or with both.
- (3) Where the woman entitled to any property under subsection (1) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being:

Provided that where such woman dies within seven years of her marriage, otherwise than due to natural causes, such property shall -

If she has no children, be transferred to her parents, or

If she has children, be transferred to such children and pending such transfer, be held in trust for such children.

(3-A) Where a person convicted under sub-section (2) for failure to transfer any property as required by subsection (1) or sub-section (3) has not, before his conviction under that sub-section, transferred such property to the women entitled thereto or, as the case may be, her heirs, parents or children, the Court shall, in addition to awarding punishment under that subsection, direct, by order in writing, that such person shall transfer the property to such woman, or as the case may be, her heirs, parents or children within such period as may be specified in the order, and if such person fails to comply with the direction within the period so specified, an amount equal to the value of the property may be recovered from him as if it were a fine imposed by such Court and paid to such woman, as the case may be, her heirs, parents or children.

(4) Nothing contained in this section shall affect provisions of Sec. 3 or Sec. 4.

7. Cognizance of offences - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),-

No Court inferior to that of a Metropolitan magistrate or a Judicial Magistrate of the first class shall try any offence under this Act;

No Court shall take cognizance of an offence under this Act except upon -

- (i) Its own knowledge or a police report of the facts which constitute such offence, or
- (ii) A complaint by the person aggrieved by offence or a parent or other relative of such person, or by any recognized welfare institution or organization:

It shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorized by this Act on any person convicted of any offence under this Act.

Explanation.- For the purposes of this sub-section, "recognised welfare institution or organization" means a social welfare institution or organization recognized in this behalf by the Central or State Government.

(2) Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply to any offence punishable under this Act.)

Notwithstanding anything contained in any law for the time being in force, a statement made by the person aggrieved by the offence shall not subject such person to a prosecution under this Act.

8. Offences to be cognizable for certain purposes and to be bailable and non-compoundable-

(1) The Code of Criminal Procedure, 1973 (2 of 1974) shall apply to offences under this Act as of they were cognizable offences-

- (a) For the purpose of investigation of such offences; and
- (b) For the purpose of matters other than-
 - (i) Matters referred to in Sec. 42 of that Code, and
 - (ii) The arrest of person without a warrant or without an order of a Magistrate.

(2) Every offence under this Act shall be non-bailable and non-compoundable.

8-A. Burden of proof in certain cases - Where any person is prosecuted for taking or abetting the taking of any dowry under Sec. 3, or the demanding of dowry under Sec. 4, the burden of proving that he had not committed an offence under those sections shall be on him.

8-B. Dowry Prohibition Officers - (1) The State Government may appoint as many Dowry Prohibition Officers as it thinks fit and specify the areas in respect of which they shall exercise their jurisdiction and powers under this Act.

- (2) Every Dowry Prohibition Officer shall exercise and perform the following powers and functions, namely,-
- (a) To see that the provisions of this Act are complied with;
 - (b) To prevent, as far as possible, the taking or abetting the taking of, of the demanding of, dowry;
 - (c) To collect such evidence as may be necessary for the prosecution of persons committing offences under the Act; and
 - (d) To perform such additional functions as may be assigned to him by the State Government, or as may be specified in the rules made under this Act.
- (3) The State Government may, by notification in the official Gazette, confer such powers of a police officer as may be specified in the notification, the Dowry Prohibition Officer who shall exercise such powers subject to such limitations and conditions as may be specified by rules made under this Act.
- (4) The State Government may, for the purpose of advising and assisting the Dowry Prohibition Officers in the efficient performance of their functions under this Act, appoint an advisory board consisting of not more than five social welfare workers (out of whom at least two shall be women) from the area in respect of which such Dowry Prohibition Officer exercises jurisdiction under sub-section (1).

9. Power to make rules -

- (1) The Central Government may, by notification in the official Gazettee, make rules for carrying out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-
 - (a) The form and manner in which, and the persons by whom, any list of presents referred to in sub-section (2) of Sec. 3 shall be maintained and all other matters connected therewith; and
 - (b) The better co-ordination of policy and action with respect to the administration of this Act.
- (3) Every rules made under this section 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid 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.

10. Power of the State Government to make rules - The State Government may, by notification in the official Gazette, make rules for carrying out the purposes 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 additional functions to be performed by the Dowry Prohibition Officers under sub-section(2) of Sec. 8-B;
 - (b) Limitations and conditions subject to which a Dowry Prohibition Officer may exercise his functions under subsection (3) of Sec. 8-B.

- (3) Every rule made by the State Government under this section shall be laid as soon as may be after it is made before the State Legislature.

THE DOWRY PROHIBITION (MAINTENANCE OF LISTS OF PRESENTS TO THE BRIDE AND BRIDEGROOM) RULES, 1985

G.S.R. 664 (E), dated 19th August, 1985 - In exercise of the powers conferred by Sec. 9 of the Dowry Prohibition Act, 1961 (28 of 1961), the Central Government hereby makes the following rules, namely:

1. Short title and commencement -

- (1) These rules may be called the Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985.
- (2) They shall come into force on the 2nd day of October, 1985, being the date appointed for the coming into force of the Dowry Prohibition (Amendment) Act, 1984 (63 of 1984).

2. Rules in accordance with which lists of presents are to be maintained -

- (1) The list of presents which are given at the time of the marriage to the bride shall be maintained by the bride.
- (2) The list of present which are given at the time of the marriage to the bridegroom shall be maintained by the bridegroom.

Every list of presents referred to in sub-rule (1) or sub-rule (2) -

- (a) Shall be prepared at the time of the marriage or as soon as possible after the marriage;
- (b) Shall be in writing;
- (c) Shall contain -
 - (i) A brief description of each present;
 - (ii) The approximate value of the present;
 - (iii) The name of the person who has given the present; and
 - (iv) Where the person giving the present is related to the bride or bridegroom, a description of such relationship;
- (d) Shall be signed by both the bride and the bridegroom.

Explanation 1 - Where the bride is unable to sign, she may affix her thumb impression in lieu of her signature after having the list read out to her and obtaining the signature on the list, of the person who has so read out the particulars contained in the list.

Explanation 2 - Where the bridegroom is unable to sign he may affix his thumb-impression in lieu of his signature after having the list read out to him and obtaining the signature on the list of the person who has so read out the particulars contained in the list.

- (4) The bride or the bridegroom may, if she or he so desires, obtain on either or both of the lists referred to in sub-rule (1) or sub-rule (2) the signature or signatures of any relations of the bride or the bridegroom or of any other person or persons present at the time of the marriage.

The Orissa Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 856 CUTTACK, THURSDAY, JUNE 8, 2000 / JAISTHA 18, 1922

WOMEN & CHILD DEVELOPMENT DEPARTMENT

NOTIFICATION

(Dowry Prohibition Rules, 2000)

The 5th June 2000

S.R.O. No. 410/2000 - In exercise of the powers conferred by Section 10 of the Dowry Prohibition Act, 1961 (28 of 1961), the State Government do hereby make the following Rules to carry out the purposes of the said Act, namely :-

- | | | |
|------------------------------|----|--|
| Short title and Commencement | 1. | (1) These Rules may be called the Orissa Dowry Prohibition Rules, 2000 |
| | | (2) They shall come into force on the date of their publication in the <i>Orissa Gazette</i> |
| Definitions | 2. | (1) In these Rules, unless the context otherwise requires, - |
| | | (a) 'Act' means the Dowry Prohibition Act, 1961; |
| | | (b) 'Commission' means the State Commission for Women constituted under the Orissa State Commission for Women Act, 1993 (Orissa Act 19 of 1994); |
| | | (c) 'Complaint', 'District', 'District Magistrate' and 'Public Prosecutor' shall have the same meaning as respectively assigned to them under the Code of Criminal Procedure, 1973 (Act 2 of 1974); |
| | | (d) 'Director' means the Director of Social Welfare, Orissa, an Officer appointed as such by the Government; |
| | | (e) 'Dowry Prohibition Officer' means an Officer appointed as such by the State Government under Section 8-B; |
| | | (f) 'Family Counseling Centre' means those institutions or organizations which are recognized by the Government by notification or otherwise for the purpose; |
| | | (g) 'Form' means form appended to these Rules; |
| | | (h) 'Government' means the Government of Orissa; |
| | | (i) 'Section' means a section of the Act; |
| | | (j) 'Superintendent of Police' means the District Superintendent of Police and shall include any Additional District Superintendent of Police or other person appointed by general or special orders of the Government |

to perform all or any of the duties of the District Superintendent of Police under the Police Act, 1861 in any district; and

(k) 'Voluntary Organisation' means any institution or organization registered under the Societies Registration Act (Act XXI of 1860) and recognized as such by the Government.

(2) All other words and expressions used but not defined in these Rules shall have the same meaning as respectively assigned to them in the Act, the Code of Criminal Procedure, 1973 the Indian Penal Code, 1860 and the Indian Evidence Act, 1872.

Additional
functions of
Dowry
Prohibition
Officer

3. The additional function to be performed by the Dowry Prohibition Officer shall be as follows :-

- (a) He shall create awareness among the public against dowry by holding camps and by other suitable means with the assistance of other Departments of government and Voluntary organizations;
- (b) He shall settle disputes relating to dowry by counselling or otherwise with the assistance of the Family Counselling Centres or other persons/institutions as selected by him;
- (c) He shall take steps necessary for expeditious investigations of such cases by Police agency;
- (d) He shall send the evidence collected by him relating to the offences under the Act to the concerned Police Officer investigating the case who may take such evidence into consideration;
- (e) He shall advise the Public Prosecutor or Assistant Public Prosecutor, as the case may be, relating to any case under the Act during trial;
- (f) He shall submit quarterly reports to the District Magistrate or Superintendent of Police or the Director or the Commission, as the case may be, relating to the number of complaints received, action taken and settlement made, if any, in Form-A;
- (g) He shall maintain separate files with relevant records for each individual case of complaint; and
- (h) He may also refer any case to the Advisory Board constituted under rule 7 of these rules for their advice/assistance.

Procedure
for filing
complaint;

4. The Dowry Prohibition Officer -

- (i) shall entertain complaints of any offence under the Act from any person aggrieved or parents or other relatives of the victim in person or by post. He may also take *suo moto* action on his own information or otherwise of such offences;
- (ii) shall serially number and duly register the complaints so received in a Register in Form-B;
- (iii) shall examine the complaint, take up preliminary enquiry to collect such evidence as to the genuineness of the complaints;
- (iv) shall give notice to the parties and witnesses intimating them the date, time and place of hearing of the complaint in order to collect evidence;

- (v) shall hear the parties and witnesses and record their evidence in the summary manner; and
- (vi) may utilize the services of other Officers for collecting secret information or assisting him in the enquiry relating to a complaint.
- Limitation on 5. Dowry Prohibition Officer shall exercise same power as exercised by the Subdivisional Magistrate under the Code of Criminal Procedure, 1973 for the purpose of summoning witnesses, ensuring attendance and production of document during the enquiry.
- the exercise of Power of Dowry Prohibition Officer
- Submission 6. Parties to any marriage or any of the parents of either party to any marriage shall furnish a list of presents maintained under the Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985, framed under the Act, if so required by the Dowry Prohibition Officer.
- of list of presents by parties to the marriage.
- Constitution 7. (1) The Government on recommendation of the District Magistrate shall appoint an Advisory Board consisting of five social welfare workers, out of whom at least two shall be women from the area under the jurisdiction of the concerned Dowry Prohibition Officer. There shall be proper representation from the weaker sections of the society and legal profession in the Advisory Board.
- and functions of Advisory Board
- (2) Three members including the Chairperson, shall constitute the quorum to transact the business of the meeting of the Board.
- (3) (i) The Board shall be appointed by the Government from the area in respect of which such Board shall be formed.
- (ii) The tenure of such Board shall normally be three years, and members of the Board can be renominated for a maximum of two consecutive terms.
- (iii) The Government shall, however, have the right to supersede such Board at any time without assigning any reason thereof.
- (4) (a) There shall be a Chairperson for each Advisory Board who shall be nominated from among the members or, as the case may be, elected by the members.
- (b) The Dowry Prohibition Officer shall act as Convenor of the Board or he may direct any subordinate officer of his choice to act as such in his place.
- (5) The Convenor shall, with the consent of the Chairperson, call for meetings of the Board.
- (6) The function of the Advisory Board shall primarily include the following, namely:-
- (a) to discuss the quarterly reports of the Dowry Prohibition Officer;
- (b) to render advice and assistance to the Dowry Prohibition Officer as and when necessary; and
- (c) to discuss any other matter relating to dowry problem and to convey its opinion to the Dowry Prohibition Officer.
- (7) The Convenor shall send a copy of the proceedings of each meeting of the Advisory Board within a fortnight from the date of meeting to,-
- (i) the District Magistrate;

- (ii) the Subdivisional Magistrate; and
(iii) the Director.
- Termination of membership of the Advisory Board and filling up any vacancy.
8. (1) The membership of any member of the Advisory Board shall cease in case of such member :-
(i) remaining absent at three consecutive meetings of the Board without sufficient reasons, or
(ii) for any other reasons to be assigned by the Government.
(2) To fill up the resultant vacancy, a new member may be nominated by the District Magistrate for the remaining period of the term of the Board.
- Declaration of the Dowry Prohibition Officer Public Servant
9. Every Dowry Prohibition Officer shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.
- Repeal and saving.
10. Any rules, regulations or orders corresponding to the rules and in force immediately before the commencement of these Rules, are hereby repealed:
Provided that any order made, or action taken under the rules, regulations or orders so repealed shall be deemed to have been made or taken under these rules.
- Interpretation
11. If any question arises relating to the interpretation of these rules, the same shall be referred to the Government for decision.

FORM A

[See Rule 3(f)]

Quarterly Statement of receipt and disposal of complaints under the Dowry Prohibition Act

Number of complaints/ information received during the quarter	Number of cases dropped after preliminary enquiry	Number of cases taken up for hearing	Number of cases settled out of Court during preliminary enquiry or hearing	Number of cases pending for enquiry/hearing (figures must relate to cases received during the current quarter)	Consolidated number of cases pending for enquiry/hearing the end of this quarter. (The pendency relating to previous quarter shall be added with the figures relating to the current quarter)	Number of cases referred to the Advisory Board for advise/assistance and the number of cases in which opinion received by DPO.	Number of camps held during the quarter	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

FORM B

[See Rule 4 (ii)]

Register of Complaints of offences received under the Dowry Prohibition Act

Sl. No. for the year	Date of complete information received	Name of the complainant or informant and relationship with bride (If complainant/informant is other than bride)	Names and addresses of opposite-parties against whom complaint/information is laid and their relationship with bride	Result of Primary enquiry	Names of witnesses examined from both sides during hearing	Nature of documents relied on by both side	Result of final hearing and action taken, if any	Whether the case is under investigation by Police and, if so, the P.S. Case No./GR Case No/ Sec. of law/ Name and Designation of IO	Date of sending the evidence collected during enquiry to the police officer conducting investi- gation of the case	If PPI/APP were advised during trial of the case and, if so, the nature of advise imparted to them	Whether advice/ assistance of the Advisory Board was sought for in any matter concerning the case and, if so, the nature of advise/assistance sought for by DPO and the opinion of Advisory Board on such matter
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

[No. 3883-IIWP-28/99-WCD]

By order of the Governor

ALKA PANDA

Commissioner-cum-Secretary to Government

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WOMEN & CHILD DEVELOPMENT DEPARTMENT

NOTIFICATION

The 22nd August 2011

No. 15759-V-WP-Misc. - 16/2010-WCD - In exercise of the powers conferred by Section 10 of the Dowry Prohibition Act, 1961 (28 of 1961), the State Government do hereby make the following Rules to amend the Orissa Dowry Prohibition Rules, 2000, namely :-

1. (i) These Rules may be called the Orissa Dowry Prohibition (Amendment) Rules, 2010
(ii) This shall come into force on the date of publication in the *Orissa Gazette*.
2. In the Orissa Dowry Prohibition Rules, 2000 (hereinafter referred to as the said rules) in sub-rule (1) of Rule-2,
 - (i) after clause (a), the following clause shall be inserted, namely :-
“(a-i) ‘Advisory Board’ means a Board constituted in accordance with sub-section (4) of Section 8-B of the Act to advise and assist the Dowry Prohibition Officers”,
 - (ii) after clause (c), the following clause shall be inserted, namely:-
“(c-i) Chief Dowry Prohibition Officer” means an Officer of the State Government entrusted with the duties and responsibilities under these Rules”, and
 - (iii) after clause (h), the following clauses shall respectively be inserted, namely:-
“(h-i) ‘Officer-in-Charge of a Police Station’ means an Officer of Police Station as defined in the Code of Criminal Procedure and shall have the same meaning as assigned under Code of Criminal Procedure, 1973 (2 of 1974)”.
“(h-ii) ‘Probation Officer’ means a District Probation Officer or Additional District Probation Officer or City Probation Officer appointed as such under the Probation of Offenders Act, 1958 (20 of 1958)”.
“(h-iii) ‘Recognized Welfare Institution or Organization’ means an Institution or Organization recognized as such under sub-clause (ii) of clause (b) of sub-section (1) of Section 7 of the Act”.
3. In the said rules, for Rule 3, the following rule shall be substituted, namely:-
“3. The additional functions to be performed by the Dowry Prohibition Officer shall be as follows:-

- (a) He shall endeavour to create awareness among the public by organizing camps, publicity through the Information & Public Relations Department, Panchayat Samitis and other media against dowry and shall involve local people in prevention of dowry.
- (b) He shall conduct surprise checks and discreet inquires to ascertain whether there has been any violation of the provisions of the Act and Rules.
- (c) Every such complaint received by the Dowry Prohibition Officer shall be serially numbered and duly registered in a Register in Form No. II.
- (d) The Dowry Prohibition Officer shall scrutinize the complaint and if it is found that the nature and the contents of the complaint is apparently coming within the purview of Section 3 or 4 or 4-A or 5 or 6 of the Act, he shall immediately conduct an inquiry to collect such evidence from the parties to ascertain the genuineness of the complaint.
- (e) Where on the date fixed for hearing of the complaint or petition, the complainant or the petitioner does not appear on the date so fixed, the Dowry Prohibition Officer may in his discretion either dismiss the complaint or petition for default; or hear and come to a finding as to its merit, which shall be recorded in the case file.
- (f) The Dowry Prohibition Officer may utilize the services of District Probation Officer or Additional District Probation Officers or City Probation Officers of the area for collecting information or conducting inquiries or assisting in any stage of inquiry or proceedings relating to a complaint, petition or application under the Act.
- (g) On receipt of requisition from the Dowry Prohibition Officer, the Probation Officers shall conduct necessary inquiries, collect information and furnish such details and report promptly as requested by him.
- (h) Where any dowry is received by any person other than the woman and a complaint is received in respect of non-transfer of such dowry to the woman who is entitled to it in accordance with Section 6 of the Act, the Dowry Prohibition Officer shall issue directions to the parties to transfer the same within the stipulated time.
- (i) He shall keep in his custody all the list of presents submitted by the parties to any marriage and make entries relating thereto in a Register to be maintained for the purpose. He shall also examine these lists and ensure compliance of the provisions of Dowry Prohibition (Maintenance of lists of Presents to the Bride and Bridegroom) Rules, 1985.
- (j) He shall specifically make it clear that marriages performed within his jurisdiction are likely to be visited by him or his staff along with Officer-in-Charge of Police Station to see that the provisions of the Act are not contravened.
- (k) The Dowry Prohibition Officer shall make necessary inquiries regarding non-observance of the provisions of the Act in respect of the marriages held or proposed to be held within his jurisdiction.
- (l) He shall ascertain and confirm by suitable means in respect of as many number of marriages as are held within his jurisdiction as to whether the provisions of the Act are being followed and are not being contravened.
- (m) The Dowry Prohibition Officer while making inquiries under the Act or when he attends any marriage, for the purpose of making inquiries, shall take the assistance of an Officer of a Police Station or other Officers to assist him in the performance of his functions and it shall be the duty of the Officer of the Police Station to render all assistance required by the Dowry Prohibition Officer.
- (n) He shall render assistance to the Police in investigating the complaints filed under the Act and the Court in the trial of the case.

- (o) He shall discharge his duties with due care, decorum, privacy and in a manner upholding the dignity and harmony of family relationships.
- (p) The Dowry Prohibition Officer's approach shall be primarily preventive and remedial and prosecution shall be recommended or resorted to only if all other measures and directions are found ineffective or parties fail to comply with the orders or directions within the stipulated time.
- (q) The Dowry Prohibition Officer shall send quarterly reports to the Chief Dowry Prohibition Officer as to the numbers of complaints received under the Act and the action taken or the nature or settlement of the issue in Form No. II annexed to these rules. The Dowry Prohibition Officer shall also send such details or reports as may be required by the Chief Dowry Prohibition Officer or the Government from time to time.
- (r) He shall seek the guidance of the Advisory Board in the matters relating to his functioning under the Act.
- (s) The Dowry Prohibition Officer (Convenor of the Advisory Board) shall send a copy of the proceedings of each meeting of the Advisory Board, within a fortnight from the date of the meeting of the Advisory Board to the State Government for information and necessary action.
- (t) He shall also perform such other duties as may be assigned in this regard by the State Government.
- (u) He shall act as the Member-Secretary of the Advisory Board. He shall maintain regular contact with the members of the Advisory Board for necessary advice and assistance from them. He shall inform the District Magistrate or any other person authorized by the State Government for the purpose about all the affairs relating to the operation of the Act, as and when necessary".
4. In the said rules, the Rule 4, the following rule shall be substituted, namely :"
- "4. The Dowry Prohibition Officer shall -
- (a) entertain complaints regarding any offence under the Act from any person aggrieved or parents or other relatives of the victim or any Recognized Welfare Institution or Organization in writing, either in person or through a messenger or by post,
- (b) maintain a register for the purpose of the Act to record all complaints, enquiries and results thereof and other relevant information connected therewith and also maintain separate files with relevant records for each individual case,
- (c) give notice to the parties and witnesses intimating them the date, time and place of hearing of the complaint in Form-III,
- (d) conduct on the spot investigation and collect evidence from the parties or witnesses or fix up a hearing of the parties or witnesses in his office or in a place convenient to him without causing any inconvenience or hardship to the parties,
- (e) inquire every position & hear and come to a finding within a month from the date of its receipt".
5. In the said rules, for Rule 6, the following rule shall be substituted, namely :"
- "6. Parties to any marriage or any of the parents of either party to any marriage shall furnish to the concerned Dowry Prohibition Officer within one month from the date of marriage a list of presents maintained under the Dowry Prohibition (Maintenance of lists of Presents to the Bride and Bride groom) Rules, 1985".

6. In the said rules, after Rule B, the following rule along with its marginal heading shall respectively be inserted, namely:-
- Procedure for prosecution of Offenders.
- “8.A. In all cases of complaints investigated by Dowry Prohibition Officers where there is a *prima facie* finding as to the commission of an offence, the report shall be submitted to the competent Magistrate for prosecuting the offenders along with the statement recorded, all other connected documents of the proceedings and a brief account of the findings. This report shall be deemed to be a report under Section 173 of the Code of Criminal Procedure, 1973 (Act 2 of 1974)”.
- Recognition of Welfare Institutions.
- “8. B. (1) A Welfare Institution or Organization primarily devoted to any of the following kinds of work which has rendered service in the field for a period of not less than three years will be eligible for seeking recognition under sub-clause (ii) of clause (b) of sub-section (1) of Section 7 of the Act, namely :-
- (a) Social Welfare including care, protection and training of women;
 - (b) Organization of women of a Statewide or all India Character, Prominent Mahila Samitis or Women’s Organization;
 - (c) Social Defence including care and protection of destitutes, rescued women and children;
 - (d) Any organization of lawyers interested in eradicating social evils.
- (2) Any Welfare institution or organization eligible under sub-rule (1) and desiring recognition shall make an application to the State Government in Form IV together with a copy of each of the Rules, Bye-laws, Articles of Association, Lists of its members and office bearers and a report regarding its activities and past record of social or community service.
- (3) The State Government may after making such inquiry by a Senior Officer of the concerned Department and after considering the report as to the nature and past record of service of the organization or institution which has presented the application in this regard, grant recognition for a period of five years which can be renewed after submitting a renewal application.
- (4) An application for renewal of recognition shall be submitted in Form V in the manner provided under sub-rule (2) which shall be processed as per the procedure laid down in sub-rule (3) and recognition shall be granted/renewed in cases where the working of the institution or organization is reported to be fairly satisfactory.
- (5) The State Government may withdraw the recognition granted to an institution or organization if the working of the institution/organization is found or reported to be unsatisfactory by the Chief Dowry Prohibition Officer or otherwise”.
- Method of appointment, duties and functions of Chief Dowry Prohibition Officer.
- “8. C (1) The State Government shall designate a Senior Officer of the concerned Department as the Chief Dowry Prohibition Officer to administer and co-ordinate the work of Dowry Prohibition Officers & shall be responsible for creating consciousness and awareness to prevent dowry system among the public and to set out programmes with a view to uproot the evils of dowry system.
- (2) The Chief Dowry Prohibition Officer shall be responsible for preparation and submission of an Annual Report on the progress of implementation of the Act and related matters and of such statistics as may from time to time be required by Government.

- (3) The Chief Dowry Prohibition Officer shall issue instructions to all the Departments of the State Government to the following effect :-
- (i) Every Government servant shall after his marriage furnish a declaration stating that he has not taken any dowry to the Head of the Department. The declaration shall be signed by his wife, father, mother, father-in-law and mother-in-law.
 - (ii) One specified day in a year shall be observed as Dowry Prohibition Day.
 - (iii) Pledge shall be administered to the students in schools and colleges and other institutions not to give or take dowry".

Limitation subject to which a Dowry Prohibition Officer may exercise powers of Police Officers.

"8. D(A) Save and except the provisions of Chapter V of the Code of Criminal Procedure, namely the power of arrest of a person without warrant, the Dowry Prohibition Officer shall have the powers of a Police Officer under the said code for the purpose of investigation and submission of report before the competent Magistrate.

- (1) Whenever the Dowry Prohibition Officer has reasonable grounds for believing that an offence punishable under this Act has been or is being or is about to be committed within his jurisdiction and that the search of any premises with warrant cannot be made without undue delay, he may, after sending the grounds of his belief to the District Magistrate, search such premises without a warrant.
- (2) Before making a search under sub-rule (2), the Dowry Prohibition Officer shall call upon two or more residents of the locality in which the place to be searched is situated, to attend and witness the search, and may issue an order in writing to them or any of them to do so.
- (3) Any person, who without reasonable cause, refuses or neglects to attend and witness a search under this rule when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under Section 187 of the Indian Penal Code (45 of 1860)".

Protection of action taken in good faith.

"8(E) No suit or other legal proceeding shall lie against the Government, Chief Dowry Prohibition Officer, Dowry Prohibition Officer, Probation Officer and any Police Officer or person assisting him, in respect of anything which is in good faith done or intended to be done in pursuance of the Act or the Rules".

7. In the said Rules, after Rule 11, the following Forms shall be inserted, namely:" Form-I".

ARTI AHUJA
Commissioner-cum-Secretary to
Government
Women & Child Development Department

FORM I

[See Rule 4 (b)]

REGISTER OF COMPLAINTS/PETITIONS

Sl. No.	List of complaints	Name & address of the petitioner	Relationship with the married couple	Date of marriage fixed or held	Date of receipt of petition/ complaint	Date of hearing	Nature of disposal	Initials of the Officer	REMARKS
1	2	3	4	5	6	7	8	9	10

Dowry Prohibition Officer

FORM II (C) & (Q)

[See Rule 3(111) & (XVI)]

QUARTERLY PROGRESS REPORT REGARDING THE IMPLEMENTATION OF
DOWRY PROHIBITION ACT, 1961

Sl. No.	Details of Petition/ Complaints received	From whom name and address	Nature of complaints/ Petition	Date of Registration	Action taken	Nature of settlement of issue	Dated initials of the Officers	Remarks
1	2	3	4	5	6	7	8	9

Dowry Prohibition Officer

FORM III

(See Rule 4 (c))

NOTICE TO APPEAR BEFORE DOWRY PROHIBITION OFFICER

To

(Name of person against whom
complaint has been received and address)

Whereas your attendance is necessary to collect information and gather evidence to a complaint of (state shortly the alleged offence) you are hereby required to appear in person before the Dowry Prohibition Officer on the day of at(time) in the office of the(place).

Dowry Prohibition Officer

FORM IV[See **Rule 8B (2)**]**FORM OF APPLICATION FOR RECOGNITION OF WELFARE INSTITUTION/
ORGANISATION**

1. Name of the Welfare Institution/Organisation :
2. Full address :
3. Aims and objectives :
4. Name and address of the head of the institution/
organization :
5. Brief account of its activities :
6. Justification for granting recognition :
7. Has any such application been made previously, :
if so, its result together with its date, month and
year.
8. Any other particulars

Enclosures:

- (1)
- (2)
- (3)

Place:

Date:

**Signature of the Head of the
Welfare Institution/Organization**

FORM V

[See **Rule 8 B (4)**]

FORM OF APPLICATION FOR RENEWAL OF CERTIFICATE OF RECOGNITION

1. Name of the Welfare Institution/Organisation :
2. Full address :
3. Brief account of the achievements during last five years :
4. Name and address of the head of the institution/organization :
5. Certificate No., date and date of expiry :
6. Any other particulars :

Place:

Date:

**Signature of the Head of the
Welfare Institution/Organization**

2. Protection of Women from Domestic Violence

2.1. The Protection of Women from Domestic Violence Act, 2005

2.2. The Protection of Women from Domestic Violence Rules, 2006



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II - खण्ड 1

PART II - Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 14th September, 2005/Bhadra 23, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 13th September, 2005, and is hereby published for general information:-

THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT,
2005

No. 43 OF 2005

[13th September, 2005]

An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Protection of Women from Domestic Violence Act, 2005. Short title, extent and commencement.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires, - Definitions
- (a) "aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;
- (b) "child" means any person below the age of eighteen years and includes any adopted, step or foster child;
- (c) "compensation order" means an order granted in terms of section 22;
- (d) "custody order" means an order granted in terms of section 21;
- (e) "domestic incident report" means a report made in the prescribed form on receipt of a complaint of domestic violence from an aggrieved person;
- (f) "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as joint family;
- (g) "domestic violence" has the same meaning as assigned to it in section 3;
- (h) "dowry" shall have the same meaning as assigned it in section 2 of the Dowry Prohibition Act, 1961; 28 of 1961
- (i) "Magistrate" means the Judicial Magistrate of the first class, or as the case may be, the Metropolitan Magistrate, exercising jurisdiction under the Code of Criminal Procedure, 1973 in the area where the aggrieved person resides temporarily or otherwise or the respondent resides or the domestic violence is alleged to have taken place; 2 of 1974
- (j) "medical facility;" means such facility as may be notified by the State Government to be a medical facility for the purposes of this Act;
- (k) "monetary relief" means the compensation which the Magistrate may order the respondent to pay to the aggrieved person, at any stage during the hearing of an application seeking any relief under this Act, to meet the expenses incurred and the losses suffered by the aggrieved person as a result of the domestic violence;
- (l) "notification" means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;

- (m) "prescribed" means prescribed by rules made under this Act;
- (n) "Protection Officer" means an officer appointed by the State Government under sub-section (1) of section 8;
- (o) "protection order" means an order made in terms of section 18;
- (p) "residence order" means an order granted in terms of sub-section (1) of section 19;
- (q) "respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:
- Provided that an "aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner;
- (r) "service provider" means an entity registered under sub-section (1) of section 10;
- (s) "shared household" means a household where the person aggrieved lives or at any stage has lived in a domestic relationship ether singly or along with the respondent and includes such a household be the owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household;
- (f) "shelter home" means any shelter home as may be notified by the State Government to be a shelter home for the purposes of this Act.

CHAPTER II

DOMESTIC VIOLENCE

3. For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it -
- (a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
- (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- (c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or
- (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I - For the purposes of this section, -

Definition
of
domestic
violence

(i) “physical abuse” means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;

(ii) “sexual abuse” includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;

(iii) “verbal and emotional abuse” includes -

(a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and

(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested.

(iv) “economic abuse” includes –

(a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, *stridhan*, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her *stridhan* or any other property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

Explanation II - For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes “domestic violence” under this section, the overall facts and circumstances of the case shall be taken into consideration.

CHAPTER III

POWERS AND DUTIES OF PROTECTION OFFICERS, SERVICE PROVIDERS, ETC.

Information to Protection Officer and exclusion of liability of informant.

4. (1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, may give information about it to the concerned Protection Officer.

(2) No liability, civil or criminal, shall be incurred by any person for giving in good faith of information for the purpose of sub-section (1).

Duties of police officers, service providers and Magistrate.

5. A Police Officer, Protection Officer, service provider or Magistrate who has received a complaint of domestic violence or is otherwise present at

the place of an incident of domestic violence or when the incident of domestic violence is reported to him, shall inform the aggrieved person-

(a) of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order, a compensation order or more than one such order under this Act;

(b) of the availability of services of service providers;

(c) of the availability, of services of the Protection Officers;

(d) of her right to free legal services under the Legal Services Authorities Act, 1987; 39 of 1987

(e) of her right to file a complaint under section 498A of the Indian Penal Code, wherever relevant: 45 of 1860

Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

Duties of shelter homes.

6. If an aggrieved person or on her behalf a Protection Officer or a service provider requests the person in charge of a shelter home to provide shelter to her, such person in charge of the shelter home shall provide shelter to the aggrieved person in the shelter home.

Duties of medical facilities.

7. If an aggrieved person or, on her behalf a Protection Officer or a service provider requests the person in charge of a medical facility to provide any medical aid to her, such person in charge of the medical facility shall provide medical aid to the aggrieved person in the medical facility.

Appointment of Protection Officers.

8. (1) The State Government. shall, by notification, appoint such number of Protection Officers in each district as it may consider necessary and shall also notify the area or areas within which a Protection Officer shall exercise the powers and perform the duties conferred on him by or under this Act.

(2) The Protection Officers shall as far as possible be women and shall possess such qualifications and experience as may be prescribed.

(3) The terms and conditions of service of the Protection .Officer and the other officers subordinate to him shall be such as may be prescribed.

Duties and functions of Protection Officers.

9. (1) It shall be the duty of the Protection Officer-

(a) to assist the Magistrate in the discharge of his functions under this Act;

(b) to make a domestic incident report to the Magistrate, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area;

(c) to make an application in such form and in such manner as may be prescribed to the Magistrate, if the aggrieved person so desires, claiming relief for issuance of a protection order;

39 of 1987

(d) to ensure that the aggrieved person is provided legal aid under the Legal Service Authorities Act, 1987 and make available free of cost the prescribed form in which a complaint is to be made;

(e) to maintain a list of all service providers providing legal aid or counselling shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate;

(f) to make available a safe shelter home, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home to the police station and the Magistrate having jurisdiction in the area where the shelter home is situated;

(g) to get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the police station and the Magistrate having jurisdiction in the area where the domestic violence is alleged to have been taken place;

2 of 1974

(h) to ensure that the order for monetary relief under section 20 is complied with and executed, in accordance with the procedure prescribed under the Code of Criminal Procedure, 1973;

(i) to perform such other duties as may be prescribed.

(2) The Protection Officer shall be under the control and supervision of the Magistrate, and shall perform the duties imposed on him by the Magistrate and the Government by, or under, this Act.

21 of 1860
1 of 1956

10. (1) Subject to such rules as may be made in this behalf, any voluntary association registered under the Societies Registration Act, 1860 or a company registered under the Companies Act, 1956 or any other law for the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Act.

Service
Provider

(2) A service provider registered under sub-section (1) shall have the power to -

a) record the domestic incident report in the prescribed form if the aggrieved person so desires and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence took place;

(b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the police station within the local limits of which the domestic violence took place;

(c) ensure that the aggrieved person is provided shelter in a shelter home, if she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the police station within the local limits of which the domestic violence took place.

(3) No suit, prosecution or other legal proceeding shall lie against any service provider or any member of the service provider who is, or who is deemed to be, acting or purporting to act under this Act, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Act towards the prevention of the commission of domestic violence.

11. The Central Government and every State Government, shall take all measures to ensure that -

Duties of
Government

- (a) the provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals;
- (b) the Central Government and State Government Officers including the police officers and the members of the judicial services are given periodic sensitization and awareness training on the issues addressed by this Act;
- (c) effective co-ordination between the services provided by concerned Ministries and Departments dealing with law, home affairs including law and order, health and human resources to address issues of domestic violence is established and periodical review of the same is conducted;
- (d) protocols for the various Ministries concerned with the delivery of services to women under this Act including the courts are prepared and put in place.

CHAPTER IV

PROCEDURE FOR OBTAINING ORDERS OF RELIEFS

Application
to
Magistrate

12. (1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act:

Provided that before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider.

(2) The relief sought for under sub-section (1) may include a relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent:

Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, or any other law for the time being in force, be executable for the balance amount, if any, left after such set off.

(3) Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto.

(4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court.

(5) The Magistrate shall endeavour to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing.

Service of
notice

13. (1) A notice of the date of hearing fixed under section 12 shall be given by the Magistrate to the Protection Officer, who shall get it served by such means as may be prescribed on the respondent, and on any other person, as directed by the Magistrate within a maximum period of two days or

5 of 1908

such further reasonable time as may be allowed by the Magistrate from the date of its receipt.

(2) A declaration of service of notice made by the Protection Officer in such form as may be prescribed shall be the proof that such notice was served upon the respondent and on any other person as directed by the Magistrate unless the contrary is proved.

Counselling

14. (1) The Magistrate may, at any stage of the proceedings under this Act, direct the respondent or the aggrieved person, either singly or jointly, to undergo counselling with any member of a service provider who possess such qualifications and experience in counselling as may be prescribed.

(2) Where the Magistrate has issued any direction under sub-section (1), he shall fix the next date of hearing of the case within a period not exceeding two months.

15. In any proceeding under this Act, the Magistrate may secure the service of such person, preferably a woman, whether related to the aggrieved person or not, including a person engaged in promoting family welfare as he thinks fit, for the purpose of assisting him in discharging his functions.

Assistance of welfare expert

16. If the Magistrate considers that the circumstances of the case so warrant, and if either party to the proceedings so desires, he may conduct the proceedings under this Act *in camera*.

Proceedings to be held in camera.

17. (1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right; title or beneficial interest in the same.

Right to reside in a shared household.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law.

18. The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being *prima facie* satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from -

Protection orders.

(a) committing any act of domestic violence;

(b) aiding or abetting in the commission of acts of domestic violence;

(c) entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person;

(d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or electronic or telephonic contact;

(e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her *stridhan* or any other property held either jointly by the parties or separately by them without the leave of the Magistrate;

(f) causing violence to the dependants, other relatives or any person who give the aggrieved person assistance from domestic violence;

(g) committing any other act as specified in the protection order.

19. (1) While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order -

Residence orders.

(a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;

(b) directing the respondent to remove himself from the shared household;

(c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;

(d) restraining the respondent from alienating or disposing off the shared household or encumbering the same;

(e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or

(f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require:

Provided that no order under clause (b) shall be passed against any person who is a woman.

(2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.

(3) The Magistrate may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence.

(4) An order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973 and shall be dealt with accordingly.

2 of 1974

(5) While passing an order under sub-section (1), sub-section (2) or sub-section (3), the court may also, pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist her or the person making an application on her behalf in the implementation of the order.

(6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties.

(7) The Magistrate may direct the officer in-charge of the police station in whose jurisdiction the Magistrate has been approached to assist in the implementation of the protection order.

(8) The Magistrate may direct the respondent to return to the possession of the aggrieved person her *stridhan* or any other property or valuable security to which she is entitled to.

Monetary
reliefs

20. (1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to, -

(a) the loss of earnings;

b) the medical expenses;

(c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and

(d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 or any other law for the time being in force.

2 of 1974

(2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.

(3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.

(4) The Magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the in charge of the police station within the local limits of whose jurisdiction the respondent resides.

(5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).

(6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

21. Notwithstanding anything contained in any other law for the time being in force, the Magistrate may, at any stage of hearing of the application for protection order or for any other relief under this Act grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf and specify, if necessary, the arrangements for visit of such child or children by the respondent: .

Custody
orders

Provided that if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit.

22. In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person,

Compensation
orders

pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent.

23. (1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.

Power to grant interim and *ex parte* orders.

(2) If the Magistrate is satisfied that an application *prima facie* discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an *ex parte* order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.

24. The Magistrate shall, in all cases where he has passed any order under this Act, order that a copy of such order, shall be given free of cost, to the parties to the, application, the police officer in-charge of the police station in the jurisdiction of which the Magistrate has been approached, and any service provider located within the local limits of the jurisdiction of the court and if any service provider has registered a domestic incident report, to that service provider.

Court to give copies of order free of cost.

25. (1) A protection order made under section 18 shall be in force till the aggrieved person applies for discharge.

Duration and alteration of orders.

(2) If the Magistrate; on receipt of an application from the aggrieved person or the respondent, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate.

26. (1) Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

Relief in other suits and legal proceedings.

(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.

(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.

Jurisdiction. 27. (1) The court of Judicial Magistrate of the 'first class or the Metropolitan Magistrate, as the case may be, within the local limits' of which -

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or

(b) the respondent resides or carries on business or is employed; or

(c) the cause of action has arisen,

shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

- (2) Any order made under this Act shall be enforceable throughout India.
- Procedure 28. (1) Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973. 2 of 1974
- (2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23.
- Appeal. 29. There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.

CHAPTER V

MISCELLANEOUS

- Protection Officers and members of service providers to be public servants. 30. The Protection Officers and members of service providers, while acting or purporting to act in pursuance of any of the provisions of this Act or any rules or orders made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.
- Penalty for breach of protection order by respondent. 31. (1) A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.
- (2) The offence under sub-section (1) shall as far as practicable be tried by the Magistrate who had passed the order, the breach of which has been alleged to have been caused by the accused.
- (3) While framing charges under sub-section (1), the Magistrate may also frame charges under section 498A of the Indian Penal Code or any other provision of that Code or the Dowry Prohibition Act, 1961, as the case may be, if the facts disclose the commission of an offence under those provisions. 45 of 1860. 28 of 1961.
- Cognizance and proof. 32. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence under sub-section (1) of section 31 shall be cognizable and non-bailable. 2 of 1974.
- (2) Upon the sole testimony of the aggrieved person, the court may conclude that an offence under sub-section (1) of section 31 has been committed by the accused.
33. If any Protection Officer fails or refuses to discharge his duties as directed by the Magistrate in the protection order without any sufficient cause, he shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both. Penalty for not discharging duty by Protection Officer.
34. No prosecution or other legal proceeding shall lie against the Protection Officer unless a complaint is filed with the previous sanction of the State Government or an officer authorised by it in this behalf. Cognizance of offence committed by Protection Officer.

35. No suit, prosecution or other legal proceeding shall lie against the Protection Officer 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 or any rule or order made thereunder.

Protection of action taken in good faith.

36. The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.

Act not in derogation of any other law.

37. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

Power of Central Government to make rules.

(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 qualifications and experience which a Protection Officer shall possess under sub-section (2) of section 8;

(b) the terms and conditions of service of the Protection Officers and the other officers subordinate to him, under sub-section (3) of section 8;

(c) the form and manner in which a domestic incident report may be made under clause (b) of sub-section (1) of section 9;

(d) the form and the manner in which an application for protection order may be made to the Magistrate under clause (c) of sub-section (1) of section 9;

(e) the form in which a complaint is to be filed under clause (d) of sub-section (1) of section 9;

(f) the other duties to be performed by the Protection Officer under clause (i) of sub-section (1) of section 9;

(g) the rules regulating registration of service providers under sub-section (1) of section 10;

(h) the form in which an application under sub-section (1) of section 12 seeking reliefs under this Act may be made and the particulars which such application shall contain under sub-section (3) of that section;

(i) the means of serving notices under sub-section (1) of section 13;

(j) the form of declaration of service of notice to be made by the Protection Officer under sub-section (2) of section 13;

(k) the qualifications and experience in counselling which a member of the service provider shall possess under sub-section (1) of section 14;

(l) the form in which an affidavit may be filed by the aggrieved person under sub-section (2) of section 23;

(m) any other matter 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 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, 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.

BRAHM AVTAR AGRAWAL,
Addl. Secretary to the Govt. of India

MINISTRY OF WOMEN AND CHILD DEVELOPMENT
NOTIFICATION

New Delhi, the 17th October, 2006

G.S.R. 644(E) - In exercise of the powers conferred by section 37 of the Protection of Women from Domestic Violence Act, 2005 (43 of 2005), the Central Government hereby makes the following rules, namely: -

1. Short title and commencement -

- (1) These rules may be called the Protection of Women from Domestic Violence rules, 2006.
- (2) They shall come into force on the 26th day of October, 2006.

2. Definitions - In these rules, unless the context otherwise requires -

- (a) "Act means the Protection of Women from Domestic Violence Act, 2005 (43 of 2005);
- (b) "complaint" means any allegation made orally or in writing by any person to the Protection Officer;
- (c) "Counsellor" means a a member of a service provider competent to give counselling under sub-section (1) of section 14;
- (d) "Form" means a form appended to these rules;
- (e) "section" means a section of the Act;
- (f) words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Qualifications and experience of Protection Officers -

- (1) The Protection Officers pointed by the State Government may be of the Government or members of non-Governmental organizations :

Provided that preference shall be given to women.

- (2) Every person appointed as Protection Officer under the Act shall have at least three years experience in social sector.
- (3) The tenure of a Protection Officer shall be a minimum period of three years.
- (4) The State Government shall provide necessary office assistance to the Protection Officer for the efficient discharge of his or her functions under the Act and these rules.

4. Information to Protection Officers -

- (1) Any person who has reason to believe that an act of domestic violence has been, or is being or is likely to be committed may give information about it to the Protection Officer having jurisdiction in the area either orally or in writing.
- (2) In case the information is given to the Protection Officer under sub-rule (1) orally, he or she shall cause it to be reduced to in writing and shall ensure that the same is signed by the person giving such information and in case the informant is not in a position to furnish written information the Protection Officer shall satisfy and keep a record of the identity of the person giving such information.
- (3) The Protection Officer shall give a copy of the information recorded by him immediately to the informant free of cost.

5. **Domestic incident reports -**

- (1) Upon receipt of a complaint of domestic violence, the Protection Officer shall prepare a domestic incident report in Form I and submit the same to the Magistrate and forward copies thereof to the police officer in charge of the police station within the local limits of jurisdiction of which the domestic violence alleged to have been committed has taken place and to the service providers in that area.
- (2) Upon a request of any aggrieved person, a service provider may record a domestic incident report in **Form I** and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence is alleged to have taken place.

6. **Applications to the Magistrate -**

- (1) Every application of the aggrieved person under section 12 shall be in **Form II** or as nearly as possible thereto.
- (2) An aggrieved person may seek the assistance of the Protection Officer in preparing her application under sub-rule (1) and forwarding the same to the concerned Magistrate.
- (3) In case the aggrieved person is illiterate, the Protection Officer shall read over the application and explain to her the contents thereof.
- (4) The affidavit to be filled under sub-section (2) of section 23 shall be filed in **Form III**.
- (5) The applications under section 12 shall be dealt with and the orders enforced in the same manner laid down under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974).

7. **Affidavit for obtaining *ex-parte* orders of Magistrate -** Every affidavit for obtaining *ex-parte* order under sub-section (2) of section 23 shall be filed in Form III.

8. **Duties and functions of Protection Officers -**

- (1) It shall be the duty of the Protection Officer -
 - i) to assist the aggrieved person in making a complaint under the Act, if the aggrieved person so desires;
 - ii) to provide her information on the rights of aggrieved persons under the Act as given in **Form IV** which shall be in English or in a vernacular local language;
 - iii) to assist the person in making any application under section 12, or sub-section (2) of section 23 or any other provision of the Act or the rules made thereunder;
 - iv) to prepare a "Safety Plan" including measures to prevent further domestic violence to the aggrieved person, in consultation with the aggrieved person in **Form V**, after making an assessment of the dangers involved in the situation and on an application being moved under section 12;
 - v) to provide legal aid to the aggrieved person, through the State Legal Aid Services Authority;
 - vi) to assist the aggrieved person and any child in obtaining medical aid at a medical facility including providing transportation to get the medical facility;
 - vii) to assist in obtaining transportation for the aggrieved person and any child to the shelter;
 - viii) to inform the service providers registered under the Act that their services may be required in the proceedings under the Act and to invite applications from service providers seeking particulars of their members to be appointed as Counsellors in proceeding under the Act under sub-section (1) of section 14 or Welfare Experts under section 15;
 - ix) to scrutinise the applications for appointment as Counsellors and forward a list of available Counsellors to the Magistrate;

- x) to revise once in three years the list of available Counsellors by inviting fresh applications and forward a revised list of Counsellors on the basis thereof to the concerned Magistrate;
 - xi) to maintain a record and copies of the report and documents forwarded under sections 9, 12, 20,21,22, 23 or any other provisions or the Act of these rules;
 - xii) to provide all possible assistance to the aggrieved person and the children to ensure that the aggrieved person is not victimized or pressurized as a consequence of reporting the incidence of domestic violence;
 - xiii) to liaise between the aggrieved person or persons, police and service provider in the manner provided under the Act and these rules;
 - xiv) to maintain proper records of the service providers, medical facility and shelter homes into the area of his jurisdiction.
- (2) In addition to the duties and functions assigned to a Protection Officer under clauses (a) to (h) of sub-section (1) of section 9, it shall be the duty of every Protection Officer -
- (a) to protect the aggrieved persons from domestic violence, in accordance with the provisions of the Act and these rules;
 - (b) to take all reasonable measures to prevent recurrence of domestic violence against the aggrieved person, in accordance with the provisions of the Act and these rules.
9. **Action to be taken in cases of emergency** - If the Protection Officer or a service provider receives reliable information through e-mail or a telephone call or the like either from the aggrieved person or from any person who has reason to believe that an act of domestic violence is being or is likely to be committed and in a such an emergency situation, the Protection Officer or the service provider, as the case may be, shall seek immediate assistance of the police who shall accompany the protection officer or the service provider, as the case may be, to the place of occurrence and record the domestic incident report and present the same to the Magistrate without any delay for seeking appropriate orders under the Act.
10. **Certain other duties of the Protection Officers** -
- (1) The Protection Officer, if directed to do so in writing, by the Magistrate shall -
 - (a) conduct a home visit or the shared household premises and make preliminary enquiry if the court requires clarification, in regard to granting *ex-parte* interim relief to the aggrieved person under the Act and pass an order for such home visit;
 - (b) after making appropriate inquiry, file a report on the emoluments, assets, bank accounts or any other documents as may be directed by the court;
 - (c) restore the possession of the personal effects including gifts and jewellery of the aggrieved person and the shared household to the aggrieved person;
 - (d) assist the aggrieved person to regain custody of children and secure rights to visit them under his supervision as may be directed by the court.
 - (e) assist the court in enforcement of orders in the proceedings under the Act in the manner directed by the Magistrate, including orders under section 12, section 18, section 19, section 20, section 21 or section 23 in such manner as may be directed by the court.
 - (f) take the assistance of the police, if required, in confiscating any weapon involved in the alleged domestic violence.
 - (2) The Protection Officer shall also perform such other duties as may be assigned to him by the State Government or the Magistrate in giving effect to the provisions of the Act and these rules from time to time.

- (3) The Magistrate may, in addition to the orders for effective relief in any case, also issue directions relating general practice for better handling of the cases, to the Protection Officers within his jurisdiction and the Protection Officers shall be bound to carry out the same.

11. Registration of service providers -

- (1) Any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or a company registered under the companies Act, 1956 (1 of 1956) or any other law for time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance and desirous of providing service as a service provider under the Act shall make an application under sub-section (1) of section 10 for registration as service provider in Form VI to the State Government.

- (2) The State Government shall, after making such enquiry as it may consider necessary and after satisfying itself about the suitability of the applicant, register it as a service provider and issue a certificate of such registration;

Provided that no such application shall be rejected without giving the applicant an opportunity of being heard.

- (3) Every association or company seeking registration under sub-section (1) of section 10 shall possess the following eligibility criteria, namely -

- a) It should have been rendering the kind of services it is offering under the Act for at least three years before the date of application for registration under the Act and these rules as a service provider.

- b) In case an applicant for registration is running a medical facility, or a psychiatric counseling centre, or a vocational training institution, the State Government shall ensure that the applicant fulfils the requirements for running such a facility or institution laid down by the respective regulatory authorities regulating the respective professions or institutions.

- c) In case an applicant for registration is running a shelter home the State Government shall, through an officer or any authority or agency authorised by it, inspect the shelter home, prepare a report and record its finding on the report, detailing that -

- i) the maximum capacity of such shelter home for intake of persons seeking shelter;
- ii) the place is secure for running a shelter home for women and that adequate security arrangements can be put in place for the shelter home;
- iii) the shelter home has a record of maintaining a functional telephone connection or other communication media for the use of the inmates;

- (3) The State Government shall provide a list of service providers in the various localities to the concerned Protection Officers and also publish such list of newspapers or on its website.

- (4) The Protection Officer shall maintain proper records by way of maintenance of registers duly indexed, containing the details of the service providers.

12. Means of service of notices -

- (1) The notices for appearance in respect of the proceedings under the Act shall contain the names of the person alleged to have committed domestic violence, the nature of domestic violence and such other details which may facilitate the identification of person concerned.

- (2) The service of notices shall be made in the following manner, namely :-

- a) The notices in respect of the proceedings under the Act shall be served by the Protection Officer or any other person directed by him to serve the notice, on behalf of the Protection Officer, at the address where the respondent is started to be ordinarily residing in India by the complainant or aggrieved person or where the respondent is stated to be gainfully employed by the complainant or aggrieved person, as the case may be.
 - b) The notice shall be delivered to any person in charge of such place at the moment and in case of such delivery not being possible it shall be pasted at a conspicuous place on the premises.
 - c) For serving the notices under section 13 or any other provision of the Act, the provisions under Order V of the Civil Procedure Code, 1908 (5 of 1908) or the provisions under Chapter VI of the Code of Criminal Procedure, 1973 (2 of 1974) as far as practicable may be adopted.
 - d) Any order passed for such service of notices shall entail the same consequences, as an order passed under Order V of the Civil Procedure Code, 1908 or Chapter VI of the Code of Criminal Procedure, 1973 respectively, depending upon the procedure found efficacious for making an order for such service under section 13 or any other provision of the Act and in addition to the procedure prescribed under the Order V or Chapter VI, the court may direct any other steps necessary with a view to expediting the proceedings to adhere to the time limit provided in the Act.
- (3) On a statement on the date fixed for appearance of the respondent, or a report of the person authorized to serve the notices under the Act, that service has been effected appropriate orders shall be passed by the court on any pending application for interim relief, after hearing the complainant or the respondent, or both.
 - (4) When a protection order is passed restraining the respondent from entering the shared household or the respondent is ordered to stay away or not to contact the petitioner, no action of the aggrieved person including an invitation by the aggrieved person shall be considered as waiving the restraint imposed on the respondent, by the order of the court, unless such protection order is duly modified in accordance with the provisions of sub-section (2) of section 25.

13. **Appointment of Counselors -**

- (1) A person from the list of available Counselors forwarded by the Protection Officer, shall be appointed as a counsellor, under intimation to the aggrieved person.
- (2) The following persons shall not be eligible to be appointed as Counselors in any proceedings, namely :-
 - i) any person who is interested or connected with the subject matter of the dispute or is related to any one of the parties or to those who represent them unless such objection is waived by all the parties in writing.
 - ii) any legal practitioner who has appeared for the respondent in the case or any other suit or proceedings connected therewith.
- (3) The Counsellors shall as far as possible be women.

14. **Procedure to be followed by Counsellors -**

- (1) The Counsellor shall work under the general supervision of the court or the Protection Officer or both.
- (2) The Counsellor shall convene a meeting at a place convenient to the aggrieved person or both the parties.

- (3) The factors warranting counselling shall include the factor that the respondent shall furnish an undertaking that he would refrain from causing such domestic violence as complained by the complainant and in appropriate cases an undertaking that he will not try to meet, or communicate in any manner through letter or telephone, electronic mail or through any medium except in the counselling proceedings before the counsellor or as permissibly by law or order of a court of competent jurisdiction.
- (4) The Counsellor shall conduct the counselling proceedings bearing in mind that the counseling shall be in the nature of getting an assurance, that the incidence of domestic violence shall not get repeated.
- (5) The respondent shall not be allowed to plead any counter justification for the alleged act of domestic violence in counselling the fact that and any justification for the act of domestic violence by the respondent is not allowed to be a part of the Counselling proceeding should be made known to the respondent, before the proceedings begin.
- (6) The respondent shall furnish an undertaking to the Counsellor that he would refrain from causing such domestic violence as complained by the aggrieved person and in appropriate cases an undertaking that he will not try to meet, or communicate in any manner through letter or telephone, e-mail, or through any other medium except in the counselling proceedings before the Counsellor.
- (7) If the aggrieved person so desires, the Counsellor shall make efforts of arriving at a settlement of the matter.
- (8) The limited scope of the efforts of the Counsellor shall be to arrive at the understanding of the grievances of the aggrieved person and the best possible redressal of her grievances and the efforts shall be to focus on evolving remedies or measures for such redressal.
- (9) The Counsellor shall strive to arrive at the settlement of the dispute by suggesting measures for redressal of grievances of the aggrieved person by taking into account the measures or remedies suggested by the parties for counselling and reformulating the terms for the settlement, wherever required.
- (10) The Counsellor shall not be bound by the provisions of the Indian Evidence Act, 1872 or the Code of Civil Procedure, 1908 or the Code of Criminal Procedure 1973, and his action shall be guided by the principles of fairness and justice and aimed at finding way to bring an end to domestic violence to the satisfaction of the aggrieved person and in making such an effort the Counsellor shall give due regard to the wishes and sensibilities of the aggrieved person.
- (11) The Counsellor shall submit his report to the Magistrate as expeditiously as possible for appropriate action.
- (12) In the event the Counsellor arrives at a resolution of the dispute, he shall record the terms of settlement and get the same endorsed by the parties.
- (13) The court may, on being satisfied about the efficacy of the solution and after making a preliminary enquiry from the parties and after, recording reasons for such satisfaction, which may include undertaking by the respondents to refrain from repeating acts of domestic violence, admitted to have been committed by the respondents, accept the terms with or without conditions.
- (14) The court shall, on being so satisfied with the report of counselling, pass an order, recording the terms of the settlement or an order modifying the terms of the settlement on being so requested by the aggrieved person, with the consent of the parties.

- (15) In cases, where a settlement cannot be arrived at in the counselling proceedings, the Counsellor shall report the failure of such proceedings to the Court and the court shall proceed with the case in accordance with the provisions of the Act.
- (16) The record of proceedings shall not be deemed to be material on record in the case on the basis of which any inference may be drawn or an order may be passed solely based on it.
- (17) The court shall pass an order under section 25, only after being satisfied that the application for such an order is not vitiated by force, fraud or coercion or any other factor and the reasons for such satisfaction shall be recorded in writing in the order, which may include any undertaking or surety given by the respondent.

15. Breach of Protection Orders -

- (1) An aggrieved person may report a breach of protection order or an interim protection order to the Protection Officer.
- (2) Every report referred to in sub-rule (1) shall be in writing by the informant and duly signed by her.
- (3) The Protection Officer shall forward a copy of such complaint with a copy of the protection order of which breach is alleged to have taken place to the concerned Magistrate for appropriate orders.
- (4) The aggrieved person may, if she so desires, make a complaint of breach of protection order or interim protection order directly to the Magistrate or the Police, if she so chooses.
- (5) If, at any time after a protection order has been breached, the aggrieved person seeks his assistance, the protection officer shall immediately rescue her by seeking help from the local police station and assist the aggrieved person to lodge a report to the local police authorities in appropriate cases.
- (6) When charges are framed under section 31 or in respect of offences under section 498A of the Indian Penal Code, 1860 (45 of 1860), or any other offence not summarily triable, the Court may separate the proceedings for such offences to be tried in the manner prescribed under Code of Criminal Procedure, 1973 (2 of 1974) and proceed to summarily try the offence of the breach of Protection Order under section 31, in accordance with the provisions of Chapter XXI of the code of Criminal Procedure, 1973 (2 of 1974).
- (7) Any resistance to the enforcement of the orders of the Court under the Act by the respondent or any other person purportedly acting on his behalf shall be deemed to be a breach of protection order or an interim protection order covered under the Act.
- (8) A breach of a protection order or an interim protection order shall immediately be reported to the local police station having territorial jurisdiction and shall be dealt with as a cognizable offence as provided under sections 31 and 32.
- (9) While enlarging the person on bail arrested under the Act, the Court may, by order, impose the following conditions to protect the aggrieved person and to ensure the presence of the accused before the court, which may include -
 - a) an order restraining the accused from threatening to commit or committing an act of domestic violence;
 - b) an order preventing the accused from harassing, telephoning or making any contact with the aggrieved person;
 - c) an order directing the accused to vacate the stay away from the residence of the aggrieved person or any place she is likely to visit;

- d) an order prohibiting the possession or use of firearm or any other dangerous weapon;
- e) an order prohibiting the consumption of alcohol or other drugs;
- f) any other order required for protection, safety and adequate relief to the aggrieved person.

16. Shelter to the aggrieved person -

- (1) On a request being made by the aggrieved person, the Protection Officer or a service provider may make a request under section 6 to the person in charge of a shelter home in writing, clearly stating that the application is being made under section 6.
- (2) When a Protection Officer makes a request referred to in sub-rule (1), it shall be accompanied by a copy of the domestic incident report registered, under section 9 or under section 10.

Provided that shelter home shall not refuse shelter to an aggrieved person under the Act, for her not having lodged a domestic incident report, prior to the making of request for shelter in the shelter home.

- (3) If the aggrieved person so desires, the shelter home shall not disclose the identity of the aggrieved person in the shelter home or communicate the same to the person complained against.

17. Medical Facility to the aggrieved person -

- (1) The aggrieved person or the Protection Officer or the service provider may make a request under section 7 to a person in charge of a medical facility in writing clearly stating that the application is being made under section 7.
- (2) When a Protection Officer makes such a request, it shall be accompanied by a copy of the domestic incident report:

Provided that the medical facility shall not refuse medical assistance to an aggrieved person under the Act, for her not having lodged a domestic incident report, prior to making a request for medical assistance or examination to the medical facility.

- (3) If no domestic incident report has been made, the person-in-charge of the medical facility shall fill in Form I and forward the same to the local Protection Officer.
- (4) The medical facility shall supply a copy of the medical examination report to the aggrieved person free of cost.

FORM I

[See rule 5(1) and (2) and 17 (3)]

Domestic Incident Report under sections 9 (b) and 37 (2) (c) of the Protection of Women from Domestic Violence Act, 2005 (43 of 2005)

1. Details of the complainant/aggrieved person

(1) Name of the complainant/aggrieved person :

(2) Age :

(3) Address of the shared household:

(4) Present Address:

(5) Phone number, If any:.

2. Details of Respondents:

S.No.	Name	Relationship with the aggrieved person	Address	Telephone No. if any

3. Details of children, if any, of the aggrieved person :

a) Number of Children :

b) Details of children :

Name	Age	Sex	With whom at present residing

4. Incidents of domestic violence :

S.No.	Date, place and time of violence	Person who caused domestic violence	Types of violence	Remarks
			Physical violence	
			Causing hurt of any kind please specify	
(i) Sexual violence Please tick mark (✓) the column applicable				
			<input type="checkbox"/> Forced sexual intercourse. <input type="checkbox"/> Forced to watch pomography or other obscene material <input type="checkbox"/> Forcibly using you to entertain others <input type="checkbox"/> Any other act of sexual nature, abusing, humiliating, degrading or otherwise violatiive of your dignity (please specify details in the space provided below)	

(ii) Verbal and emotional abuse			
			<ul style="list-style-type: none"> <input type="checkbox"/> Accusation/aspersion on your character or conduct, etc. <input type="checkbox"/> Insult for not brining dowry, etc. <input type="checkbox"/> Insult for not having a male child. <input type="checkbox"/> Insult for not having any child. <input type="checkbox"/> Demeaning, humiliating or undermining remarks / statement <input type="checkbox"/> Ridicule <input type="checkbox"/> Name calling <input type="checkbox"/> Forcing you to not attend school, college or any other educational institution. <input type="checkbox"/> Preventing you from taking up a job. <input type="checkbox"/> Preventing you from leaving the House. <input type="checkbox"/> Preventing you from meeting any particular person. <input type="checkbox"/> Forcing you to get married against you will. <input type="checkbox"/> Preventing you from marrying a person of your choice. <input type="checkbox"/> Forcing you to marry a person of his/their own choice. <input type="checkbox"/> Any other verbal or emotional abuse (please specify in the space provided below)
(iii) Economic violence			
			<ul style="list-style-type: none"> <input type="checkbox"/> Not providing money for maintaining you or your children. <input type="checkbox"/> Not providing food, clothes, medicine, etc. for you or your children. <input type="checkbox"/> Forcing you out of the house you live in. <input type="checkbox"/> Preventing you from accessing or using any part of the house. <input type="checkbox"/> Preventing or obstructing you from carrying on your employment. <input type="checkbox"/> Not allowing you to take up an employment. <input type="checkbox"/> Non-payment of rent in case of a rented accommodation. <input type="checkbox"/> Not allowing you to use clothes or articles of general household use.

			<input type="checkbox"/> Selling or pawning your stridhan or any other valuables without informing you and without your consent. <input type="checkbox"/> Forcibly taking away your salary, income or wages etc. <input type="checkbox"/> Disposing your stridhan <input type="checkbox"/> Non payment of other bills such as electricity, etc. <input type="checkbox"/> Any other economic violence (please specify in the space provided below)	
(iv) Dowry related harassment				
			<input type="checkbox"/> Demands for dowry made, please specify; <input type="checkbox"/> Any other detail with regard to dowry, please specify. Whether details of dowry items, stridhan, etc. attached with the form <input type="checkbox"/> Yes <input type="checkbox"/> No	
(v) any other information regarding acts of domestic violence against you or your children				

(Signature or thumb impression of the complainant/aggrieved person)

5. List of documents attached

Name of document	Date	Any other detail
Medico legal certificate		
Doctor's certificate or any other prescription		
List of Stridhan		
Any other document		

6. Order that you need under the Protection of Women from Domestic Violence Act, 2005

S.No.	Orders	Yes/No	Any other
1)	Protection order under section 18		
2)	Residence order under section 19		
3)	Maintenance order under section 20		
4)	Custody order under section 21		
5)	Compensation order under section 22		
6)	Any other order (specify)		

7. Assistance that you need

S.No.	Assistance available	Yes/No	Nature of assistance
(1)	(2)	(3)	(4)
1)	Counsellor		
2)	Police assistance		
3)	Assistance for initiating criminal proceedings		
4)	Shelter home		
5)	Medical facilities		
6)	Legal aid		

8. Instruction for the Police officer assisting in registration of a Domestic Incident Report :

Wherever the information provided in this Form discloses an offence under the Indian Penal Code or any other law, the police officer shall -

- a) inform the aggrieved person that she can also initiate criminal proceedings by lodging a First Information Report under the Code of Criminal Procedure, 1973 (2 of 1973).
- b) if the aggrieved person does not want to initiate criminal proceedings, then make daily diary entry as per the information contained in the domestic incident report with a remark that the aggrieved person due to the intimate nature of the relationship with the accused wants to pursue the civil remedies for protection against domestic violence and has requested that on the basis of the information received by her, the matter has been kept pending for appropriate enquiry before registration of an FIR.
- c) if any physical injury or pain being reported by the aggrieved person, offer immediate medical assistance and get the aggrieved person medically examined.

Place: (Counter signature of Protection Officer/Service provider)

Date: Name:

Address:

(Seal)

Copy forwarded to :-

- 1. Local Police Station
- 2. Service Provider/Protection Officer
- 3. Aggrieved person
- 4. Magistrate

FORM II
[See rule 6(1)]

Application to the Magistrate under section 12 of the Protection of Women from Domestic Violence Act, 2005 (43 of 2005)

To

The court of Magistrate

.....
.....
.....

Application under section _____ of the
Protection of Women from Domestic Violence
Act, 2005 (43 of 2005)

SHOWETH :

1. That the application under section of Protection of Women from Domestic Violence Act, 2005 is being filed along with a copy of Domestic Incident Report by the :-
 - a) Aggrieved person
 - b) Protection Officer
 - c) Any other person on behalf of
the aggrieved person
(tick whichever is applicable)
2. It is prayed that the Hon'ble court may take cognizance of the complaint/Domestic Incident Report and pass all/any of the orders, as deemed necessary in the circumstances of the case.
 - a) Pass protection orders under section 18 and/or
 - b) Pass residence orders under section 19 and/or
 - c) Direct the respondent to pay monetary relief under section 20 and/or
 - d) Pass orders under section 21 of the act and/or
 - e) Direct and respondent to grant compensation or damages under section 22 and/or
 - f) Pass such interim orders as the court deems just and proper;
 - g) Pass any orders as deems fit in the circumstances of the case.
3. **Orders required :**
 - i) **Protection Order under section 18**
 - Prohibiting acts of domestic violence by granting an injunction against the Respondent/s from repeating any of the acts mentioned in terms of column 4(a)/(b)/(c)/(d)/(e)/(f)/(g) of the application
 - Prohibiting Respondent(s) from entering the school/college/workplace.
 - Prohibiting from stopping you from going to your place of employment.
 - Prohibiting Respondent(s) from entering the school/college/any other place of your children
 - Prohibiting from stopping you from going to your school
 - Prohibiting any from of communication by the Respondent with you
 - Prohibiting alienation of assets by the Respondent
 - Prohibiting operation of joint bank lockers/accounts by the Respondent and allowing the aggrieved person to operate the same
 - Directing the Respondent to stay away from the dependants/relatives/any other person of the aggrieved person to prohibit violence against them.
 - Any other order, please specify
 - ii) **Residence Order under section 19**
 - An order restraining Respondent(s) from
 - Dispossessing or throwing me out from the shared household
 - Entering that portion of the shared household in which I reside

- Alienating/disposing/encumbering the shared household
- Renouncing his rights in the shared household
- An order entitling me continued access to my personal effects
- An order directing Respondent(s) to
 - * Remove himself from the shared household
 - * Secure same level of alternate accommodation or pay rent for the same
- Any other order, please specify

iii) Monetary reliefs under section 20

- Loss of earnings, Amount claimed
- Medical expenses, Amount claimed
- Loss due to destruction/damage or removal of property from the control of the aggrieved person. Amount claimed
- Any other loss or physical or mental injury as specified in clause 10(d)
 - Amount claimed
- Total Amount Claimed
- Any other order, please specify

iv) Monetary reliefs under section 20

- Directing the Respondent to pay the following expenses as monetary relief:
 - Food, clothes, medications and other basic necessities, Amount per month
 - School fees and related expenses Amount per month
 - Household expenses Amount per month
 - Any other expenses Amount per month
 - Total per month
- Any other order, please specify

v) Custody Order under section 21

Direct the Respondent to hand over the custody of the child of children to the

- Aggrieved Person
- Any other person on her behalf, details or such person

vi) Compensation order under section 22

- vii) Any other order, please specify**

4. Details of previous litigation, if any

- a) Under the Indian Penal Code, Sections Pending in the court of
- Disposed off, details of relief

- b) Under CrPC, Sections Pending in the court of
- Disposed off, details of relief
- c) Under the Hindu Marriage Act, 1956, Sections Pending in the Court of
- Disposed off, details of relief
- d) Under the Hindu Adoptions and Maintenance Act, 1956, Sections Pending in the court of
- Disposed off, details of relief
- e) Application for Maintenance, under section under Act
- Interim maintenance Rs. p.m.
- Maintenance granted Rs. p.m.
- f) Whether Respondent was sent to Judicial custody
 - For less than a week For less than a month
 - For more than a month
 - Specify period
 -
- g) Any other order

Prayer :

It is, therefore most respectfully prayed that this Hon'ble Court be pleased to grant the relief(s) claimed therein and pass such order or orders other order as this Hon'ble Court may deem fit and proper under the given facts and circumstances of the case for protecting the aggrieved person from domestic violence and in the interest of justice.

Place : COMPLAINANT/AGGRIEVED PERSON
 Dated: THROUGH

COUNSEL

VERIFICATION:

Verified at (place) on this day of that the contents of Paras 1 to 12 of the above application are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

DEPONENT

Countersignature of Protection Officer with date

FORM III

[See rule 6(4) and 7]

AFFIDAVIT UNDER SECTION 23(2) OF THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

IN THE COURT OF / MM,

P/S :

IN THE MATTER OF :

Ms & Others COMPLAINANT

VERSUS

Mr..... & Others RESPONDENT

AFFIDAVIT

I,, W/o, Mr..... R/oD/o Mr. R/o, presently residing at do hereby solemnly affirm and declare on oath as under :

1. That I am the Applicant in the accompanying Application for filed for myself and for my daughter/son.
2. That I am the natural guardian of
3. That being conversant with the facts and circumstances of the case I am competent to swear this affidavit.
4. That the Deponent had been living with the Respondent/s at since to
5. That the details provided in the present Application for the grant of relief under Section(s) have been entered into by me/at my instructions.
6. That the contents of the application have been read over, explained to me in English/Hindi/ any other local language (Please specify).
7. That the contents of the said application may be read as part of this affidavit and are not repeated herein for the sake of brevity.
8. That the applicant apprehends repetition of the acts of domestic violence by the Respondent(s) against which relief is sought in the accompanying application.
9. That the Respondent has threatened the Applicant that
.....
.....
.....
10. That the reliefs claimed in the accompanying application are urgent in as much as the applicant would face great financial hardship and would be forced to live under threat of repetition/ escalation of acts of domestic violence complained of in the accompanying application by the Respondent(s) if the said reliefs are not granted on an ex-parte ad-interim basis.

11. That the facts mentioned herein are true and correct to the best of my knowledge and belief and nothing material has been concealed there from.

DEPONENT

VERIFICATION :

Verified at on this day of 20 That the contents of the above affidavit are correct to the best of my knowledge and belief and no part of it is false and nothing material has been concealed there from.

DEPONENT

Form IV

[See rule 8(1) (ii)]

Information on rights of aggrieved persons under the Protection of Women from Domestic Violence Act, 2005

If you are beaten up, threatened or harassed in your home by a person with whom you reside in the same house, then you are facing domestic violence. The Protection of Women from Domestic Violence Act, 2005, gives you the right to claim protection and assistance against domestic violence.

You can receive protection and assistance under the Act, if the person(s) with whom you are/were residing in the same house, commits any of the following acts of violence against you or a child in your care and custody -

1. Physical Violence :

For example -

- i) Beating
- ii) Slapping
- iii) Hitting
- iv) Biting
- v) Kicking
- vi) Punching
- vii) Pushing
- viii) Shoving or
- ix) Causing bodily pain or injury in any other manner.

2. Sexual violence :

For example -

- i) Forced sexual intercourse;
- ii) Forces you to look at pornography or any other obscene pictures or material;
- iii) Any act of sexual nature to abuse, humiliate or degrade you, or which is otherwise violative of your dignity or any other unwelcome conduct of sexual nature;
- iv) Child sexual abuse

3. Verbal and Emotional Violence:

For example -

- i) Insults;
- ii) Name-calling;
- iii) Accusations on your character or conduct etc.;
- iv) Insults for not having a male child,
- v) Insults for not bringing dowry etc.;
- vi) Preventing you or a child in your custody from attending school, college or any other educational institution;
- vii) Preventing you from taking up a job;
- viii) Forcing you to leave your job;
- ix) Preventing you or a child in your custody from leaving the house;
- x) Preventing you from meeting any person in the normal course of events;
- xi) Forcing you to get married when you do not want to marry;
- xii) Preventing you from marrying a person of your own choice;
- xiii) Forcing you to marry a particular person of his/their own choice;
- xiv) Threat to commit suicide;
- xv) Any other verbal or emotional abuse.

4. **Economic Violence:**

For example -

- i) Not providing you money for maintaining you or your children,
 - ii) Not providing food, clothes, medicines etc. for you or your children,
 - iii) Stopping you from carrying on your employment or,
 - iv) Disturbing you in carrying on your employment,
 - v) Not allowing you to take up an employment or
 - vi) Taking away your income from your salary, wages etc. or
 - vii) Not allowing you to use your salary, wages etc.,
 - viii) Forcing you out of the house you live in,
 - ix) Stopping you from accessing or using any part of the house,
 - x) Not allowing use of clothes, articles or things of general household use,
 - xi) Not paying rent if staying in a rented accommodation, etc.
3. If an act of domestic violence is committed against you by a person/s with whom you are/ were residing in the same house, you can get all or any of the following orders against the person(s)-
- a) **Under section 18:**
 - i) To stop committing any further acts of domestic violence on you or your children;
 - ii) To give you the possession of your stridhan, jewellery, clothes etc.
 - iii) Not to operate the joint bank accounts or lockers without permission of the court.

b) Under section 19 :

- i) Not to stop you from residing in the house where you were residing with the person/s:
- ii) Not to disturb or interfere with your peaceful enjoyment of residence,
- iii) Not to dispose off the house in which you are residing.
- iv) If your residence is a rented property then either to ensure payment of rent or secure any other suitable alternative accommodation which offers you the same security and facilities as earlier residence.
- v) Not to give up the rights in the property in which you are residing without the permission of the court.
- vi) Not to take any loan against the house/property in which you are residing or mortgage it or create any other financial liability involving the property.
- vii) Any or all of the following orders for your safety requiring the person/s to -

c) General Order:

- i) Stop the domestic violence complained/reported

d) Special Orders :

- i) Remove himself/stay away from your place of residence or workplace;
- ii) Stop making any attempts to meet you,
- iii) Stop calling you over phone or making any attempts to communicate with you by letter, e-mail etc.
- iv) Stop talking to you about marriage or forcing you to meet a particular person of his/their choice for marriage;
- v) Stay away from the school of your child/children, or any other place where you and your children visit;
- vi) Surrender possession of firearms, any other weapon or any other dangerous substance;
- vii) Not to acquire possession of firearms, any other weapon or any other dangerous substance and not to be in possession of any similar article;
- viii) Not to consume alcohol or drugs with similar effect which led to domestic violence in the past.
- ix) Any other measure required for ensuring your or your children's safety.

e) An order for interim monetary relief under sections 20 and 22 including -

- i) Maintenance for you or your children,
- ii) Compensation for physical injury including medical expenses,
- iii) Compensation for mental torture and emotional distress,
- iv) Compensation for loss of earning,
- v) Compensation for loss caused by destruction, damage, removal of any property from your possession or control.

Note : I. Any of the above relief can be granted on an interim basis, as soon as you make a complaint of domestic violence and present your application for any of the relief before the court.

II. A complaint of domestic violence made in Form I under the Act is called a “Domestic Incident Report”.

4. If you are a victim of domestic violence, you have the following rights:
 - i) The assistance of a protection officer and service providers to inform you about your rights and the relief which you can get under the Act under section 5.
 - ii) The assistance of protection officer, service providers or the officer in charge of the nearest police station to assist you in registering your complaint and filing an application for relief under section 9 and 10.
 - iii) To receive protection for you and your children from acts of domestic violence under section 18.
 - iv) You have right to measures and orders protecting you against the particular dangers or insecurities you or your child are facing.
 - v) To stay in the house where you suffered domestic violence and to seek restraint on other persons residing in the same house, from interfering with or disturbing peaceful enjoyment of the house and the amenities facilities therein, by you or your children under section 19.
 - vi) To regain possession of your stridhan, jewellery, clothes, articles of daily use and other house hold goods under section 18.
 - vii) To get medical assistance, shelter, counselling and legal aid under sections 6, 7, 9 and 14.
 - viii) To restrain the person committing domestic violence against you from contacting you or communicating with you in any manner under section 18.
 - ix) To get compensation for any physical or mental injury or any other monetary loss due to domestic violence under section 22.
 - x) To file complaint or applications for relief under the Act directly to the court under section 12, 18, 19, 20, 21, 22 and 23.
 - xi) To get the copies of the complaint filed by you, applications made by you, reports of any medical or other examination that you or your child undergo.
 - xii) To get copies of any statements recorded by any authority in connection with Domestic Violence.
 - xiii) The assistance of the Protection Officer or the Police to rescue you from any danger.
5. The person providing the form should ensure that the details of all the registered service providers are entered in the manner and space provided below. The following is the list of service providers in the area:

Name of Organization	Service Provided	Contact Details

Continue the list on a separate sheet, if necessary

FORM V

[See Rule 8(1)(iv)]

SAFETY PLAN

1. When a Protection Officer, Police Officer or any other service provider is assisting the woman in providing details in this form, then details in columns C and D are to be filled in by the Protection Officer, Police Officer or any other service provider, as the case may be, in consultation with the complainant and with her consent.
2. The aggrieved person in case of approaching the court directly may herself provide details in columns C and D.
3. If the aggrieved person leaves columns C and D blank and approaches the court directly, then details in the said columns are to be provided by the Protection Officer to the court, in consultation with the complainant and with her consent.

Sl. No.	C				Orders sought from the court
	A	B	C	D	
	Violence by the Respondent	Consequences of violence mentioned in Column A suffered by the Aggrieved Person	Apprehensions of the Aggrieved Person regarding violence mentioned in Column A	Measures required for safety	
1.	Physical violence by the Respondent	Complainant's perception that she and her children are at risk of repetition of physical violence	a) Repetition b) Escalation c) Fear of injury d) Any other, specify		
2.	Any sexual act abusing, humiliating or degrading, otherwise violative of your dignity	a) Depression b) At risk of repetition of such an act c) Facing attempts to commit such acts	a) Repetition b) Escalation c) Any other, specify		
3.	Attempts at strangulation	a) Physical injury b) Mental ill health c) Any other, specify	a) Repetition b) Any other, specify		
4.	Beatings to the children	a) Injury to the children b) Adverse mental effect of the same on the children	a) Risk of repetition b) Adverse effect of violent behaviour/environment on the child		

	A	B	C	D	E
5.	Threats to commit suicide by the Respondent	<ul style="list-style-type: none"> a) Violent environment in the house b) Threat to safety c) Any other, specify 	<ul style="list-style-type: none"> a) Actually trying to commit the same b) Repetition c) Any other, specify 		
6.	Attempts to commit suicide by the Respondent	<ul style="list-style-type: none"> a) Violent environment in the house b) Insecurity, anxiety, depression, mental trauma c) Any other, specify 	<ul style="list-style-type: none"> a) Repetition, escalation, aggravation of the same b) Mental trauma, pain c) Any other, specify 		
7.	Psychological & Emotional abuse of the Complainant life insults, ridicule, name calling, insults for not having a male child, false accusations of unchastity, etc.	<ul style="list-style-type: none"> a) Depression b) Mental trauma, pain c) Unsuitable atmosphere for the child/children d) Any other, specify 	<ul style="list-style-type: none"> a) Repetition, escalation, aggravation of the same b) Mental trauma, pain c) Any other, specify 		
8.	Making verbal threats to cause harm to the aggrieved person/her children/parents/relatives	<ul style="list-style-type: none"> a) Living in constant fear b) Mental trauma, pain c) Any other, specify 	<ul style="list-style-type: none"> a) Respondent may carry out the mentioned threats b) Mental trauma, pain c) Any other, specify 		
9.	Forcing not to attend school/college/any other educational institution	<ul style="list-style-type: none"> a) Depression b) Mental trauma, pain c) Any other, specify 	<ul style="list-style-type: none"> a) Repetition b) Mental trauma, pain c) Any other, specify 		
10.	Forcing to get married when do not want to/forcing not to marry a person of choice/forcing to marry a particular person of Respondent/s choice	<ul style="list-style-type: none"> a) Depression b) Mental trauma, pain c) Fear of being married forcibly d) Any other 	<ul style="list-style-type: none"> a) Repetition b) Mental trauma, pain c) Any other 		

	A	B	C	D	E
11.	Threatening to kidnap the child/children	<ul style="list-style-type: none"> a) Living in constant fear b) Threat to the child/children's safety c) Any other, specify 	<ul style="list-style-type: none"> a) Children might be Kidnapped b) Any other, specify 		
12.	Actually causing harm to the aggrieved person/children/relatives	<ul style="list-style-type: none"> a) Living in constant fear of further harm b) Any other, specify 	<ul style="list-style-type: none"> a) Repetition b) Escalation c) Fear of injury d) Any other, specify 		
13.	Substance abuse (drugs/alcohol)	<ul style="list-style-type: none"> a) Living in constant fear of abusive and violent behaviour by the respondent due to substance abuse b) Deprived of leading a normal life c) Any other, specify 	<ul style="list-style-type: none"> a) Physical violence after consuming the same b) Abusive behaviour after consuming the same c) Non payment of maintenance/household expenses d) Any other, specify 		
14.	History of criminal behaviour	<ul style="list-style-type: none"> a) Constant fear of violence b) Fear of revenge by the Respondant 	<ul style="list-style-type: none"> a) Respondent has a tendency to violate law and is likely to flout orders passed by the court against him b) Respondent might cause harm to the aggrieved person/child for filing any further proceedings c) Any other, specify 		
15.	Not provided money towards maintenance, food, clothes, medicines, etc.	<ul style="list-style-type: none"> a) Driven towards vagrancy and destitution b) Any other, specify 	<ul style="list-style-type: none"> a) Have to face great hardship to fulfill the needs and requirements of her child/children and herself 		

	A	B	C	D	E
16.	Stopped, disturbed from carrying on employment or not allowed to take up the same	<ul style="list-style-type: none"> a) Not able to fulfill the basic needs for yourself and your children b) Any other, specify 	<ul style="list-style-type: none"> b) Any other, specify a) Have to face great hardship to fulfill the needs and requirements of her child/children and herself b) Any other, specify 		
17.	Forced out of the house stopped from accessing or using any part of the house or prevented from leaving the same	<ul style="list-style-type: none"> a) Having no place to stay for yourself and your children b) Being restricted to a particular area of the house 	<ul style="list-style-type: none"> a) Safety of her child/children and herself b) Have to face great hardship in providing shelter for her and her children c) Any other, specify 		
18.	Not allowed use of clothes, articles or things of general household use	<ul style="list-style-type: none"> a) Losing possession of the same b) Not having resources to replace the same 	<ul style="list-style-type: none"> a) The same may be disposed off by the Respondent b) Any other, specify 		
19.	Non payment of rent in case of a rented accommodation	<ul style="list-style-type: none"> a) Being asked to leave the same by the owner on such non payment b) No alternate accommodation to go to c) No income to afford a rented accommodation 	<ul style="list-style-type: none"> a) Losing shelter b) Facing great hardship c) Any other, specify 		
20.	Sold, pawned stridhan or any other valuables without informing or without consent	<ul style="list-style-type: none"> a) Loss of valuables or Property in her possession b) Any other, specify 	<ul style="list-style-type: none"> a) The same may be disposed off by the Respondent b) Any other, specify 		

	A	B	C	D	E
21.	Dispossessed of stridhan	a) Deprived of the property in her possession b) Any other, specify Please specify	a) The same may be disposed off by the Respondent b) Fear of never receiving the same again c) Any other, specify Please specify		
22.	Breach of civil/criminal court order, specify order				

Signature
Aggrieved Person

Signature
Service Provider/Protection
Officer/Police Officer

FORM VI
[See rule 11(1)]

Form for registration as service providers under section 10(1) of the Protection of Women from Domestic Violence Act, 2005.

1.	Name of the Applicant	
2.	Address alongwith phone number, e-mail address, if any	
3.	Services being rendered	<input type="checkbox"/> Shelter <input type="checkbox"/> Psychiatric Counselling <input type="checkbox"/> Family counselling <input type="checkbox"/> Vocational Training Centre <input type="checkbox"/> Medical Assistance <input type="checkbox"/> Awareness Programme <input type="checkbox"/> Counselling for a group of people who are victims of domestic violence and family disputes <input type="checkbox"/> Any other, specify.
4.	Number of persons employed for providing such services :	
5.	Whether providing the required services in your institution requires certain statutory minimum professional qualification? If yes, please specify and give details.	
6.	Whether list of names of the persons and the capacity in which they are working and their professional qualification is attached?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.	Period for which the services are being rendered :	<input type="checkbox"/> 3 years <input type="checkbox"/> 4 years <input type="checkbox"/> 5 years <input type="checkbox"/> 6 years <input type="checkbox"/> More than 6 years
8.	Whether registered under any law/ regulation	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If, yes, give the registration number	
9.	Whether requirements prescribed by any regulatory body or law fulfilled?	
	If yes, the name and address of the regulatory body:	

Note :- In case of a shelter home, details under column 10 to 18 are to be entered by registering authority after inspection of the shelter home.

10.	Whether there is adequate space in the shelter home	<input type="checkbox"/> Yes <input type="checkbox"/> No										
11.	Measured area of the entire premise											
12.	Number of rooms											
13.	Area of the rooms											
14.	Details of security arrangements available											
15.	Whether a record available for maintaining a functional telephone connection for the use of inmates for the last 3 years											
16.	Distance of the nearest dispensary / clinic / medical facility											
17.	Whether any arrangement for regular visits by a medical professional has been made?	<input type="checkbox"/> Yes <input type="checkbox"/> No										
<p>If yes, name of the Medical professional</p> <p>Address</p> <table border="1" style="width: 100%;"> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> </table> <p>Contact number</p> <table border="1" style="width: 100%;"> <tr><td> </td></tr> <tr><td> </td></tr> </table> <p>Qualification</p> <table border="1" style="width: 100%;"> <tr><td> </td></tr> <tr><td> </td></tr> </table> <p>Specification</p> <table border="1" style="width: 100%;"> <tr><td> </td></tr> <tr><td> </td></tr> </table>												
18.	Any other facilities available, specify	<table border="1" style="width: 100%;"> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> </table>										
<p>Note :- In case of a counseling centre, details under column 19 to 25 are to be entered after inspection by registering authority.</p>												
19.	Number of counselors in the centre	<input style="width: 50%; height: 15px;" type="text"/>										
20.	Minimum qualification of the counselors, specify	<input type="checkbox"/> Under graduate <input type="checkbox"/> Graduate <input type="checkbox"/> Post graduate <input type="checkbox"/> Diploma holder <input type="checkbox"/> Professional degree <input type="checkbox"/> Any other, specify										
21.	Experience of the counselors	<input type="checkbox"/> Less than a year <input type="checkbox"/> 1 year <input type="checkbox"/> 2 years <input type="checkbox"/> 3 years <input type="checkbox"/> more than 3 years										

22. Professional qualification/experience of counselors

- Professional degree
- Experience in family counseling as a (designation) in the (Name of the organization)
- Experience in psychiatric counseling as (designation) in the (Name of the organization)
- Any other relevant experience, please specify

23. Whether a list of names of counselors along with their qualifications has been annexed

- Yes No

24. Type of counseling provided

- Supportive one-to-one counselling
- Cognitive behavioural therapy (CBT) (Mental process that people use to remember, reason, understand, solve problems and judge things)
- Providing counseling to a group of people suffering
- Family counseling

7. Facilities provided

- Offering personal professional and confidential counseling sessions
- A safe environment to discuss problems and express emotions
- Information on counseling services, support groups and mental health care resources
- One to one counseling and group work
- Therapies, ongoing counseling and health related support
- Any other, please specify

c) Any other service

1) Services being provided

2) Personnel appointed

3) Statutory minimum qualifications required for providing such service

4) Whether a list of names of Personnel engaged for providing service along with their professional qualification is annexed.

Yes

No

5) Any other details which the service provider desirous of registration may provide

..... if necessary continue on a separate sheet.

Place :

Signature of authorised official

Date :

Designation

(Seal)

FORM VII
[See rule 11(1)]

**NOTICE FOR APPEARANCE UNDER SECTION 13(1) OF THE
Protection of Women from Domestic Violence Act, 2005**

IN THE COURT OF;

P/S :

IN THE MATTER OF :

Ms.....

... COMPLAINANT

VERSUS

Mr.

... RESPONDENT

To,

Mr.

S/o.

R/o.....

.....

.....

WHEREAS the Petitioner has filed an application(s) under section of the Protection of Women from Domestic Violence Act, 2005 (43 of 2005);

You are hereby directed to appear before this Court on the day of 20.... at o'clock in the noon personally or through a duly authorized counsel of this Court to show cause why the relief(s) claimed by the Applicant against you should not be granted failing which the court shall proceed ex parte against you.

Given under my hand and the seal of the Court of on the day of 20

Signature

Seal of the Court

(F.No. 19-3/2005-WW]
PARUL DEBI DAS, Jt. Secy.

3. Sexual Harassment at Workplace

- 3.1 The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013.
 - 3.2 The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Rules, 2013.
-



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II - खण्ड 3 - उप-खण्ड (ii)

PART II - Section 3 - Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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नई दिल्ली, सोमवार, दिसम्बर 9, 2013 / अग्रहायण 18, 1935

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NEW DELHI, MONDAY, DECEMBER 9, 2013/AGRAHAYANA 18, 1935

महिला एवं बाल विकास मंत्रालय

अधिसूचना

नई दिल्ली, 9 दिसम्बर, 2013

का.आ. 3606(अ) - केंद्रीय सरकार, महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिषेध और प्रतितोप) अधिनियम, 2013 (2013 का सं. 14) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 9 दिसम्बर, 2013 को उस तारीख के रूप में नियम करती है जिसको उक्त अधिनियम के उपबंध प्रवृत्त होंगे।

(फा.सं. 19-5/2013-डब्ल्यूडब्ल्यू)

डा. श्रीरंजन, संयुक्त सचिव

MINISTRY OF WOMEN AND CHILD DEVELOPMENT

NOTIFICATION

New Delhi, the 9th December, 2013

S.O. 3606(E) - In exercise of the powers conferred by sub-section (3) of Section 1 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013), the Central Government hereby appoints the 9th day of December, 2013 as the date on which the provisions of the said Act shall come into force.

[F. No. 19-5/2013-WW]
Dr. SHREERANJAN, Jt. Secy.

5154 GI/2013

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भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II - खण्ड 1

PART II - Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं 18] नई दिल्ली, मंगलवार, अप्रैल 23, 2013 / वैशाख 3, 1935 (शक)

No.18] NEW DELHI, TUESDAY, APRIL 23, 2013/VAISAKHA 3, 1935 (SAKA)

इस भाग में भिन्न पृष्ठा संख्या दी जाती है जिससे कि यह अग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 23rd April, 2013/Vaisakha 3, 1935 (Saka)

The following Act of Parliament received the assent of the President on the 22nd April, 2013, and is hereby published for general information:-

THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE
(PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

(No.14 OF 2013)

(22nd April, 2013)

An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

- | | | |
|--|----|---|
| Short title,
extent and
commencement | 1. | (1) This Act may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. |
| Definition | 2. | In this Act, unless the context otherwise requires,

(a) "aggrieved woman: means-

(i) in relation to workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;

(ii) in relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house;

(b) "appropriate Government" means-

(i) in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly

(A) by the Central Government or the Union territory administration, the Central Government;

(B) by the State Government, the State Government;

(ii) in relation to any workplace not covered under sub-clause (i) and failing within its territory, the State Government;

(c) "Chairperson" means the Chairperson of the Local Complaints Committee nominated under sub-section (1) of Section-7;

(d) "District Officer" means an officer notified under section 5;

(e) "domestic worker" means a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency of a temporary, permanent, part time or full time basis, but does not include any member of the family of the employer;

(f) "employee" means a person employed at a workplace for any work on regular, temporary, <i>ad hoc</i> or daily wage basis, either directly or through an agent, |

including a contractor, with or, without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name;

- (g) "employer" means-
- (i) in relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf;
- (ii) in any workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the workplace

Explanation- For the purposes of this sub-clause "management" includes the person or board or committee responsible for formulation and administration of policies for such organisation;

- (iii) in relation to workplace covered under sub-clause(i) and (ii), the person discharging contractual obligations with respect to his or her employees;
- (iv) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker;
- (h) "Internal Committee" means an Internal Complaints Committee constituted under section 4;
- (i) "Local Committee" means the Local Complaints Committee constituted under section 6;
- (j) "Member" means a Member of the Internal Committee or the Local Committee, as the case may be;
- (k) "Prescribed" means prescribed by rules made under this Act;
- (l) "Presiding Officer" means the Presiding Officer of the Internal Complaints Committee nominated under sub-section (2) of section 4;
- (m) "respondent" means a person against whom the aggrieved woman has made a complaint under section 9;
- (n) "sexual harassment" includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:-
- (i) physical contact and advances; or
- (ii) a demand or request for sexual favours; or
- (iii) making sexually coloured remarks; or
- (iv) showing pornography; or
- (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;
- (o) "workplace" includes
- (i) any department, organisation, undertaking, establishment, enterprise institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;

- (ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service;
 - (iii) hospitals or nursing homes;
 - (iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;
 - (v) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey;
 - (vi) a dwelling place or a house;
 - (p) "unorganised sector" in relation to a workplace means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten.
- Prevention of sexual harassment
3. (1) No woman shall be subjected to sexual harassment any any workplace
- (2) The following circumstances, among other circumstances, if it occurs or is present in relating to or connected with any act or behaviour of sexual harassment may amount to sexual harassment:-
- (i) implied or explicit promise of preferential treatment in her employment, or
 - (ii) implied or explicit threat of detrimental treatment in her employment; or
 - (iii) implied or explicit threat about her present or future employment status; or
 - (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
 - (v) humiliating treatment likely to affect her health or safety.

CHAPTER II

CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE

- Constitution of Internal Complaints Committee
4. (1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the "Internal Complaints Committee".
- Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.
- (2) The Internal Committee shall consist of the following members to be nominated by the employer, namely:-
- (a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees;
- Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section (1)

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation;

- (b) not less than two Members from amongst employees preferably committed to the cause of woman or who have had experience in social work or have legal knowledge;
- (c) one member from amongst non-governmental organisations or associations committed to the cause of woman or a person familiar with the issues relating to sexual harassment;

Provided that at least one-half of the total Members so nominated shall be women.

- (3) The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.
- (4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer as may be prescribed.
- (5) Where the Presiding Officer or any Member of the Internal Committee :-
 - (a) contravenes the provisions of section 16; or
 - (b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or
 - (c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
 - (d) has so abused his position as to render his continuance in office prejudicial to the public interest, such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

CHAPTER III

CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE

- 5. The appropriate Government may notify a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions under this Act. Notification of Dist. Officer
- 6. (1) Every District Officer shall constitute in the district concerned, a committee to be known as the "Local Complaints Committee" to receive complaints of sexual harassment; from establishments where the Internal Complaints Committee has not been constituted due to having less than ten workers or if the complaint is against the employer himself. Constitution and jurisdiction of Local Complaints Committee
- (2) The District Officer shall designate one nodal officer in every block, taluka and tehsil in rural or tribal area and ward or municipality

in the urban area, to receive complaints and forward the same to the concerned Local Complaints Committee within a period of seven days.

- (3) The jurisdiction of the Local Complaints Committee shall extend to the areas of the district where it is constituted.
7. (1) The Local Complaints Committee shall consist of the following members to be nominated by the District Officer, namely:-
- (a) a Chairperson to be nominated from amongst the eminent women in the field of social work and committed to the cause of women;
 - (b) one Member to be nominated from amongst the women working in block, taluka or tehsil or ward or municipality in the district;
 - (c) two Members, of whom at least one shall be a woman, to be nominated from amongst such non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed:
- Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge:
- Provided further that at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time;
- (d) the concerned officer dealing with the social welfare or women and child development in the district, shall be a member *ex officio*.
- (2) The Chairperson and every Member of the Local Committee shall hold office for such period, not exceeding three years, from the date of their appointment as may be specified by the District Officer.
- (3) Where the Chairperson or any Member of the Local Complaints Committee.
- (a) contravenes the provisions of section 16; or
 - (b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or
 - (c) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
 - (d) has so abused his position as to render his continuance in office prejudicial to the public interest, such Chairperson or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.
- (4) The Chairperson and Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) shall be entitled to such fees or allowances for holding the proceedings of the Local Committee as may be prescribed

Composition
tenure and
other terms
and
conditions of
Local
Complaints
Committee

- Grants and audit.
8. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the State Government grants of such sums of money as the Central Government may think fit, for being utilised for the payment of fees or allowances referred to in sub-section (4) of Section 7.
- (2) The State Government may set up an agency and transfer the grants made under sub-section (1) to that agency.
- (3) The agency shall pay to the District Officer, such sums as may be required for the payment of fees or allowances referred to sub-section (4) of section 7.
- (4) The accounts of the agency referred to in sub-section (2) shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State, be prescribed and the person holding the custody of the accounts of the agency shall furnish, to the State Government, before such date, as may be prescribed, its audited copy of accounts together with auditors report thereon.

CHAPTER IV COMPLAINT

- Complaint of sexual harassment
9. (1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident;
- Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing;
- Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.
- (2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.
- Conciliation 10. (1) The Internal Committee or as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation.

Provided that no monetary settlement shall be made as a basis of conciliation.

- (2) Where a settlement has been arrived at under sub-section(1), the Internal Committee or the Local Committee, as the case may be, shall record the settlement so arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation.
- (3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.
- (4) Where a settlement is arrived at under sub-section(1), no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.

- 45 of 1860
11. (1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if *prima facie* case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code, and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the Police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

- 45 of 1860
- (2) Notwithstanding anything contained in section 509 of the Indian Penal Code, the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

- 5 of 1908
- (3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;

Inquiry into complaint

- (b) requiring the discovery and production of documents: and
- (c) any other matter which may be prescribed.
- (4) The inquiry under sub-section (1) shall be completed within a period of ninety days.

CHAPTER V

INQUIRY INTO COMPLAINT

12. (1) During the pendency of an inquiry, on a written request made by the aggrieved woman, the Internal Committee or the Local Committee as the case may be, may recommend to the employer to
- Action during pendency of inquiry
- (a) transfer the aggrieved woman or the respondent to any other workplace; or
 - (b) grant leave to the aggrieved woman up to a period of three months; or
 - (c) grant such other relief to the aggrieved woman as may be prescribed
- (2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.
- (3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (1), the employer shall implement the recommendations made under sub-section(1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.
- Inquiry report
- 13 (1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.
- (2) Where the Internal Committee or the Local Committee, as the case may be, arrives as the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.
- (3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be -
- (i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed.

- (ii) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:

Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman:

Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee or, as the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

- (4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.

Punishment for false or malicious complaint and false evidence

- 14. (1) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed.

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complaint under this section.

Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

- (2) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.

- 15. For the purpose of determining the sums to be paid to the aggrieved woman under clause (ii) of sub-section (3) of section 13, the Internal Committee or the Local Committee, as the case may be, shall have regard to -

Determination of compensation

- (a) the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
- (b) the loss in the career opportunity due to the incident of sexual harassment;
- (c) medical expenses incurred by the victim for physical or psychiatric treatment;
- (d) the income and financial status of the respondent;
- (e) feasibility of such payment in lump sum or in instalments.

22 of 2005

16. Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint made under section 9, the identity and address of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee or the Local Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner:

Prohibition of publication or making known contents of complaint and inquiry proceedings.

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

17. Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of section 16, he shall be liable for penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be prescribed.

Penalty for publication or making known contents of complaint and inquiry proceedings

18. (1) Any person aggrieved from the recommendations made under sub-section(2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.
- (2) The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations.

Appeal

CHAPTER VI

DUTIES OF EMPLOYER

19. Every employer shall -

- (a) provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace.

Duties of employer

- (b) display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting, the Internal Committee under sub-section (1) of section 4;
- (c) organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed.
- (d) provide necessary facilities to the Internal Committee or the Local Committee as the case may be, for dealing with the complaint and conducting an inquiry.
- (e) assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee.
- (f) make available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint made under sub-section (1) of section-9;
- (g) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force. 45 of 1860
- (h) cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place. 45 of 1860
- (i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
- (j) monitor the timely submission of reports by the Internal Committee.

CHAPTER VII

DUTIES AND POWERS OF DISTRICT OFFICER

- Duties and powers of District Officer
20. The District Officer shall,
- (a) monitor the timely submission of reports furnished by the Local Committee;
 - (b) take such measures as may be necessary for engaging non-governmental organisations for creation of awareness on sexual harassment and the rights of the women.

CHAPTER VIII

MISCELLANEOUS

- Committee to submit annual report
21. (1) The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed an annual report and submit the same to the employer and the District Officer.
- (2) The District Officer shall forward a brief report on the annual reports received under sub-section (1) to the State Government.

- Employer to include information in annual report.
- Appropriate Government to monitor implementation and maintain data
- Appropriate Government to take measures in publicise the Act
- Power to call for information and inspection of records
- Penalty for non-compliance with provisions of Act
22. The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organisation or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.
 23. The appropriate Government shall monitor the implementation of this Act and maintain data on the number of cases filed and disposed of in respect of all cases of sexual harassment at workplace.
 24. The appropriate Government may, subject to the availability of financial and other resources.
 - (a) develop relevant information, education, communication and training materials, and organise awareness programmes, to advance the understanding of the public of the provisions of this Act providing for protection against sexual harassment of woman at workplace.
 - (b) formulate orientation and training programmes for the members of the Local Complaints Committee.
 25. (1) The appropriate Government, on being satisfied that it is necessary in the public interest or in the interest of women employees at a workplace to do so, by order in writing:-
 - a) call upon any employer or District Officer to furnish in writing such information relating to sexual harassment as it may require;
 - b) authorise any officer to make inspection of the records and workplace in relation to sexual harassment, who shall submit a report of such inspection to it within such period as may be specified in the order.

(2) Every employer and District Officer shall produce on demand before the officer making the inspection all information, records and other documents in his custody having a bearing on the subject matter of such inspection.
 26. (1) Where the employer fails to -
 - a) constitute an Internal Committee under sub-section(1) of section 4;
 - b) take action under section 13, 14 and 22; and
 - c) contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made thereunder;

he shall be punishable with fine which may extend to fifty thousand rupees.

(2) If any employer, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to -

 - i) twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence:

Provided that in case a higher punishment is prescribed under any other law for the time being in force, for the offence for which the accused is being prosecuted, the court shall take due cognizance of the same while awarding the punishment;

- ii) cancellation, of his licence or withdrawal, or non-renewal, or approval, or cancellation of the registration, as the case may be, by the Government or local authority required for carrying on his business or activity.
27. (1) No court shall take cognizance of any offence punishable under this Act or any rules made thereunder, save on a complaint made by the aggrieved woman or any person authorised by the Internal Committee or Local Committee in this behalf. Cognizance of offence by courts.
- (2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.
- (3) Every offence under this Act shall be non-cognizable.
28. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force. Act not in derogation of any other law
29. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act. Power of appropriate Government to make rules.
- (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 fees or allowances to be paid to the Members under sub-section (4) of section 4;
 - b) nomination of members under clause (c) of sub-section (1) of section 7;
 - c) the fees or allowances to be paid to the Chairperson, and Members under sub-section (4) of section 7;
 - d) the person who may make complaint under sub-section (2) of section 9;
 - e) the manner of inquiry under sub-section (1) of section 11;
 - f) the powers for making an inquiry under clause (c) of sub-section (2) of section 11;
 - g) the relief to be recommended under clause (c) of sub-section (1) of section 12;
 - h) the manner of action to be taken under clause (1) of sub-section (3) of section 13;
 - i) the manner of action to be taken under sub-section (1) and (2) of section 14;
 - j) the manner of action to be taken under section 17;
 - k) the manner of appeal under sub-section (1) of section 18;

- l) the manner of organising workshops, awareness programmes for sensitising the employees and orientation programmes for the members of the Internal Committee under clause (c) of section 19; and
 - m) the form and time for preparation of annual report by Internal Committee and the Local Committee under sub-section (1) of section 21.
- 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, 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.
 - 4) Any rule made under sub-section (4) of section 8 by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to
remove
difficulties.

30. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazettee, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty;

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

- (2) Every order made under this section shall be laid, as soon as may be after it is made; before each House of Parliament.

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P.K.MALHOTRA,
Secy. to the Govt. of India

CORRIGENDA

THE PREVENTION OF MONEY-LAUNDERING (AMENDMENT) ACT, 2012

(2 of 2013)

At page 18, in line 2 for "Arts" read "Art"

At page 21, in line 14 for "Protection" read "(Protection)"

CORRIGENDUM

THE UNLAWFUL ACTIVITIES(PREVENTION)AMENDMENT ACT, 2012

(3 of 2013)

At page 6, in line 22, *for “clause”, read “clause”*

...

CORRIGENDUM

THE BANKING LAWS(AMENDMENT)ACT, 2012

(4 of 2013)

At page 8, in line 29, *for section 30, read section 30,*

.....

CORRIGENDUM

THE APPROPRIATION ACT, 2013

(9 of 2013)

At page 1, in the marginal heading to section 2, *for “4715,54,00,000”, read “49715,54,00,000”.*

- (घ) लैंगिक उत्पीड़न के विरुद्ध क्रियान्वित कार्यशालाओं या जागरूकता कार्यक्रमों की संख्या;
- (ङ) नियोका या जिला अधिकारी द्वारा की गई कार्रवाई का स्वरूप।

[फा.सं. 19-5/2013-डब्ल्यूडब्ल्यू]

डॉ. श्रीरंजन. संयुक्त सचिव

MINISTRY OF WOMEN AND CHILD DEVELOPMENT

NOTIFICATION

New Delhi, the 9th December, 2013

G.S.R. 769(E)-In exercise of the powers conferred by Section 29 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 (14 of 2013), the Central Government hereby makes the following rules, namely:-

1. **Short title and commencement** - (1) These rules may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.
 - 2) They shall come into force on the date of their publication in the Official Gazette.
2. **Definition** - In these rules, unless the context otherwise requires-
 - a) "Act" means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013);
 - b) "complaint" means the complaint made under section 9;
 - c) "complaints Committee" means the Internal Committee or the Local Committee, as the case may be;
 - d) "incident" means an incident of sexual harassment as defined in clause (a) of section 2;
 - e) "section" means a section of the Act;
 - f) "special educator" means a person trained in communication with people with special needs in a way that addresses their individual differences and needs;
 - g) words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.
3. **Fees or allowances for Member of Internal Committee** :- (1) The Member appointed from amongst non-government organisations shall be entitled to an allowance of two hundred rupees per day for holding the proceedings of the Internal Committee and also the reimbursement of travel cost incurred in travelling by train in three tier air condition or air conditioned bus and auto rickshaw or taxi, or the actual amount spent by him on travel, whichever is less.

The employer shall be responsible for the payment of allowances referred to in sub-rule (1).
4. **Person familiar with issues relating to sexual harassment** - Person familiar with the issues relating to sexual harassment for the purpose of clause (c) of sub-section (1) of section 7 shall

be a person who has expertise on issues relating to sexual harassment and may include any of the following:-

- a) a social worker with at least five years' experience in the field of social work which leads to creation of social conditions favourable towards empowerment of women and in particular in addressing workplace sexual harassment;
- b) a person who is familiar with labour, service, civil or criminal law.

5. Fees or allowances for Chairperson and Members of Local Committee -

- (1) The Chairperson of the Local Committee shall be entitled to an allowance of two hundred and fifty rupees per day for holding the proceedings of the said Committee.
- 2) The Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) of section 7 shall be entitled to an allowance of two hundred rupees per day for holding the proceedings of the said Committee and also the reimbursement of travel cost incurred in travelling by train in three tier air condition or air conditioned bus and auto rickshaw or taxi, or the actual amount spent by him on travel, whichever is less.

The District Officer shall be responsible for the payment of allowances referred to in sub-rules (1) and (2).

6. Complaint of sexual harassment - For the purpose of sub-section (2) of Section 9;

- (i) Where the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed by-
 - a) her relative or friend; or
 - b) her co-worker; or
 - c) an officer of the National Commission for Women or State Women's Commission; or
 - d) any person who has knowledge of the incident, with the written consent of the aggrieved woman;
- (ii) where the aggrieved woman is unable to make a complaint on account of her mental incapacity, a complaint may be filed by-
 - a) her relative of friend; or
 - b) a special educator; or
 - c) a qualified psychiatrist or psychologist; or
 - d) the guardian or authority under whose care she is receiving treatment or care; or
 - e) any person who has knowledge of the incident jointly with her relative or friend or a special educator or qualified psychiatrist or psychologist, or guardian or authority under whose care she is receiving treatment or care;

- (iii) Where the aggrieved woman for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident, with her written consent;
- (iv) where the aggrieved woman is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of her legal heir.

7. Manner of inquiry into complaint -

- (1) Subject to the provisions of section 11, at the time of filing the complaint, the complainant shall submit to the Complaints Committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.
- (2) On receipt of the complaint, the Complaints Committee shall send one of the copies received from the aggrieved woman under sub-rule (1) to the respondent within a period of seven working days.
- (3) The respondent shall file his reply to the complaint along with his list of documents, and names and addresses of witness, within a period not exceeding ten working days from the date of receipt of the documents specified under sub-rule (1).
- (4) The Complaints Committee shall make inquiry into the complaint in accordance with the principles of natural justice.
- (5) The Complaints Committee shall have the right to terminate the inquiry proceedings or to give an *ex-parte* decision on the complaint, if the complainant or respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Chairperson or Presiding Officer, as the case may be:

Provided that such termination or *ex-parte* order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.

- (6) The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Complaints Committee.
 - (7) In conducting the inquiry, a minimum of three Members of the Complaints Committee including the Presiding Officer or the Chairperson, as the case may be, shall be present.
8. **Other relief to complainant during pendency of inquiry-** The Complaints Committee at the written request of the aggrieved woman may recommend to the employer to-
- a) restrain the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report, and assign the same to another officer;
 - b) restrain the respondent in case of an educational institution from supervising any academic activity of the aggrieved woman.

9. **Manner of taking action for sexual harassment-** Except in cases where service rules exist, where the Complaints Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be, to take any action including a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service or undergoing a counselling session or carrying out community service.
10. **Action for false or malicious complaint or false evidence-** Except in cases where service rules exist, where the Complaints Committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or District Officer, as the case may be, to take action in accordance with the provisions of rule 9.
11. **Appeal-** Subject to the provisions of section 18, any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clauses (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the appellate authority notified under clause (a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946).
12. **Penalty for contravention of provisions of section 16 -** Subject to the provisions of section 17, if any person contravenes the provisions of section 16, the employer shall recover a sum of five thousand rupees as penalty from such person.
- 13 **Manner to organise workshops, etc-** Subject to the provisions of section 19, every employer shall -
- (a) formulate and widely disseminate an internal policy or charter or resolution or declaration for prohibition, prevention and redressal of sexual harassment at the workplace intended to promote gender sensitive safe spaces and remove underlying factors that contribute towards a hostile work environment against woman;
 - b) carry out orientation programmes and seminars for the Members of the Internal Committee;
 - c) carry out employees awareness programmes and create forum for dialogues which may involve Panchayati Raj Institutions, Gram Sabha, women's groups, mothers' committee, adolescent groups, urban local bodies and any other body as may be considered necessary;
 - d) conduct capacity building and skill building programmes for the Members of the Internal Committee;
 - e) declare the names and contact details of all the Members of the Internal Committee;
 - f) use modules developed by the State Governments to conduct workshops and awareness programmes for sensitising the employees with the provisions of the Act.

14. **Preparation of annual report** - The annual report which the Complaints Committee shall prepare under Section 21, shall have the following details:-

- a) number of complaints of sexual harassment received in the year;
- b) number of complaints disposed off during the year;
- c) number of cases pending for more than ninety days;
- d) number of workshops or awareness programme against sexual harassment carried out;
- e) nature of action taken by the employer or District Officer.

(F. No. 19-5/2013-WW)

Dr. SHREERANJAN, Joint Secretary.

4. Anti Trafficking

4.1 The Immoral Traffic (Prevention) Act, 1956

4.2 The Prevention of Immoral Traffic (Orissa), Rules, 1959

THE IMMORAL TRAFFIC (PREVENTION) ACT, 1956

[Act No. 104 of 1956]

[30th December, 1956]

An Act to provide in pursuance of the International Convention signed at New York on the 9th day of May, 1950, for the prevention of immoral traffic.

Be it enacted by Parliament in the Seventh Year of the Republic, of India as follows:

I. Short title, extent and commencement -

- (1) This Act may be called The Immoral Traffic (Prevention) Act, 1956.
- (2) It extends to the whole of India.
- (3) This section shall come into force at once; and the remaining provisions of this come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

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

- (a) "brothel" includes any house, room, conveyance or place, or any portion of any house, room, conveyance or place, which is used for purposes of sexual exploitation or abuse for the gain of another person or for the mutual gain of two or more prostitutes;
- (aa) "child" means a person who has not completed the age of eighteen years;
- (b) "corrective institution" means an institution, by whatever name called (being an institution established or licenced as such under Section 21), in which persons, who are in need of correction, may be detained under this Act, and includes a shelter where under trials may be kept in pursuance of this Act;
- (c) "magistrate" means a Magistrate specified in the second column of the Schedule as being competent to exercise the powers conferred by the section in which the expression occurs and which is specified in the first column of the Schedule;
- (d) "prescribed" means prescribed by rules made under this Act;
- (e) ¹[*****].
- (f) "prostitution" means the sexual exploitation or abuse of persons for commercial purposes or for consideration in money or in any other kind, and the expression "prostitute" shall be construed accordingly;
- (g) "protective home" means an institution, by whatever name called (being an institution established or licenced as such under Section 21), in which persons who are in need of care and protection, may be kept under this Act and where appropriate technically qualified persons, equipments and other facilities have been provided but does not include,—
 - (i) a shelter where undertrials may be kept in pursuance of this Act, or
 - (ii) a corrective institution;
- (h) "public place" means any place intended for use by, or accessible to the public and includes any public conveyance;
- (i) "special police officer" means a police officer appointed by or on behalf of the State Government to be in charge of police duties within a specified area for the purpose of this Act;
- (j) "trafficking police officer" means a police officer appointed by the Central Government under sub-section (4) of Section 13.

1. Subsection (e) emmitted by Act No. 46 of 1978

2-A. Rule of construction regarding enactments not extending to Jammu and Kashmir - Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

3. Punishment for keeping a brothel or allowing premises to be used as a brothel -

(1) Any person who keeps or manages, or acts or assists in the keeping or management of, a brothel shall be punishable on first conviction with rigorous imprisonment for a term of not less than two years and which may extend to three years and also with fine which may extend to ten thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which shall not be less than three years and which may extend to seven years and shall also be liable to fine which may extend to two lakh rupees.

(2) a any person who, -

(a) being the tenant, lessee, occupier or person in charge of any premises, uses, or knowingly allows any other person to use, such premises or any part thereof as a brothel, or

(b) being the owner, lessor or landlord of any premises or the agent of such owner, lessor or landlord, lets the same or any part thereof with the knowledge that the same or any art thereof is intended to be used as a brothel, or is wilfully a party to the use of such premises or any part hereof as a brothel,

shall be punishable on first conviction with imprisonment for a term which may extend to two years and with fine which fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend to five years and also with fine.

(2-A) For the purposes of sub-section (2), it shall be presumed, until the contrary is proved, that any person referred to in clause (a) or clause (b) of that sub-section, is knowingly allowing the premises or any part thereof to be used as a brothel or, as the case may be, has knowledge that the premises or any part thereof are being used as a brothel, if,-

(a) a report is published in a newspaper having circulation in the area in which such person resides to the effect that the premises or any part thereof have been found to be used for prostitution as a result of a search made under this Act; or

(b) a copy of the list of all things found during the search referred to in clause (a) is given to such person.

(3) Notwithstanding any thing contained in any other law for the time being in force, on conviction of any person referred to in clause (a) or clause (d) of sub-section (2) of any offence under that sub-section in respect of any premises or any part thereof, any lease or agreement under which such premises have been leased out or held or occupied at the time of the commission of the offence, shall become void and inoperative with effect from the date of the said conviction.

4. Punishment for living on the earnings of prostitution -

(1) Any person over the age of eighteen years who knowingly lives, wholly or in part, on the earnings of the prostitution of any other person shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both, and where such earnings relate to the prostitution of a child, shall be punishable with imprisonment for a term of not less than seven years and not more than ten years.

- (2) Where any person over the age of eighteen years is proved,-
- (a) to be living with, or to be habitually in the company of, a prostitute; or
 - (b) to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that such person is aiding abetting or compelling her prostitution; or
 - (c) to be acting as a tout or pimp on behalf of a prostitute,
- it shall be presumed, until the contrary is proved, that such person is knowingly living on the earnings of prostitution of another person within the meaning of sub-section (1).

5. Procuring, inducing or taking person for the sake of prostitution -

- (1) Any person who—
- (a) procures or attempts to procure a person whether with or without his/her consent, for the purpose of prostitution; or
 - (b) induces a person to go from any place, with the intent that he/she may for the purpose of prostitution become the inmate of, or frequent, a brothel; or
 - (c) takes or attempts to take a person or causes a person to be taken, from one place to another with a view to his/her carrying on, or being brought up to carry on prostitution; or
 - (d) causes or induces a person to carry on prostitution;

shall be punishable on conviction with rigorous imprisonment for a term of not less than three years and not more than seven years and also with fine which may extend to two thousand rupees, and if any offence under this sub-section is committed against the will of any person, the punishment of imprisonment for a term of seven years shall extend to imprisonment for a term of fourteen years:

Provided that if the person in respect of whom an offence committed under this subsection, is a child, the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years but may extend to life.

2 [**** **]

- (3) An offence under this section shall be triable,-
- (a) in the place from which a person is procured, induced to go, taken or caused to be taken or from which an attempt to procure or taken such persons made; or
 - (b) in the place to which she may have gone as a result of the inducement or to which he/she is taken or caused to be taken or an attempt to take him/her is made.

5A. Whoever recruits, transports, transfers, harbours, or receives a person for the purpose of prostitution by means of,-

- (a) threat or use of force or coercion, abduction, fraud, deception; or
 - (b) abuse of power or a position of vulnerability; or
 - (c) giving or receiving of payments or benefits to achieve the consent of such person having control over another person,
- commits the offence of trafficking in persons.

Explanation - Where any person recruits, transports, transfers, harbours or receives a person for the purposes of prostitution, such person shall, until the contrary is proved, be presumed to have recruited, transported, transferred, harboured or received the person with the intent that the person shall be used for the purpose of prostitution.

- 5B. (1) Any person who commits trafficking in persons shall be punishable on first conviction with rigorous imprisonment for a term which shall not be less than seven years and in the event of a second or subsequent conviction with imprisonment for life.
- (2) Any person who attempts to commit, or abets trafficking in persons shall also be deemed to have committed such trafficking in persons and shall be punishable with the punishment hereinbefore described.
- 5C. Any person who visits or is found in a brothel for the purpose of sexual exploitation of any victim of trafficking in persons shall on first conviction be punishable with imprisonment for a term which may extend to three months or with fine which may extend to twenty thousand rupees or with both and in the event of a second or subsequent conviction with imprisonment for a term which may extend to six months and shall also be liable to fine which may extend to fifty thousand rupees.
6. Detaining a person in premises where prostitution is carried on -
- (1) Any person who detains any other person, whether with or without his consent,-
- (a) in any brothel, or
- (b) in or upon any premises with intent that such person may have sexual intercourse with a person who is not the spouse of such person,
- shall be punishable on conviction, with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine which may extend to one lakh rupees:
- Provided that the court may for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which may be less than seven years.
- (2) Where any person is found with a child in a brothel, it shall be presumed, unless the contrary is proved, that he has committed an offence under sub-section (1).
- (2-A) Where a child found in a brothel, is, on medical examination, detected to have been sexually abused, it shall be presumed unless the contrary is proved, that the child has been detained for purposes of prostitution or, as the case may be, has been sexually exploited for commercial purposes.
- (3) A person shall be presumed to detain a person in a brothel or in upon any premises for the purpose of sexual intercourse with a man other than her lawful husband, if such person, with intent to compel or induce her to remain there,-
- (a) withholds from her any jewellery, wearing apparel, money or other property belonging to her, or
- (b) threatens her with legal proceedings if she takes away with her any jewellery, wearing apparel money or other property lent or supplied to her by or by the direction of such person.
- (4) Notwithstanding any law to the contrary, no suit, prosecution or other legal proceeding shall lie against such woman or girl at the instance of the person by whom she has been detained, for the recovery of any jewellery, wearing apparel or other property alleged to have been lent or supplied to or for such woman or girl or to have been pledged by such woman or girl or for the recovery of any money alleged to be payable by such woman or girl.

7. Prostitution in or in the vicinity of public place -

(1) Any person who carries on prostitution and the person with whom such prostitution is carried on, in any premises:

- (a) which are within the area or areas, notified under sub-section (3), or
- (b) which are within a distance of two hundred meters of any place of public religious worship, educational institution, hotel, hospital, nursing home or such other public place of any kind as may be notified in this behalf by the Commissioner of Police or Magistrate in the manner prescribed, shall be punishable with imprisonment for a term which may extend to three months.

(1-A) Where an offence committed under sub-section (1) is in respect of a child, the person committing the offence shall be punishable with imprisonment of either description for a term which not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.

(2) Any person who:

- (a) being the keeper of any public place knowingly permits prostitute for purposes of their trade to resort to or remain in such place; or
- (b) being the tenant, lessee, occupier or person in charge of any premises referred to in sub-section (1) knowingly permits the same or any part thereof to be used for prostitution; or
- (c) being the owner, lessor or landlord of any premises referred to in sub-section (1), or the agent of such owner, lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof may be used for prostitution, or is wilfully a party to such use. shall be punishable on first conviction with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both, and in the event of a second or subsequent conviction with imprisonment for a term which may extend to six months and also with fine, which may extend to two hundred rupees, and if the public place or premises happen to be a hotel, the licence for carrying on the business of such hotel under any law for the time being in force shall also be liable to be suspended for a period of not less than three months but which may extend to one year:

Provided that if an offence committed under this sub-section is in respect of a child in a hotel, such licence shall also be liable to be cancelled.

Explanation - For the purposes of this sub-section, "hotel" shall have the meaning as in clause (6) of Section 2 of the Hotel-Receipts Tax Act, 1980 (54 of 1980).

- (3) The State Government may, having regard to the kinds of persons frequenting any area or areas in the State, the nature and the density of population therein and other relevant considerations, by notification in the official Gazette, direct that the prostitution shall not be carried on in such area or areas as may be specified in the notification.
- (4) Where the notification is issued under Sub-section (3) in respect of any area or areas, the State Government shall define the limits of such area or areas in the notification with reasonable certainty.
- (5) No such notification shall be issued so as to have effect from a date earlier than the expiry of a period of ninety days after the date on which it is issued.

8. Seducing or soliciting for purpose of prostitution

However, in any public place or within sight of, and in such manner as to be seen or heard from, any public place, whether from within any building or house or not:

- (a) By words, gestures, wilful exposure of her person (whether by sitting by a window or on the balcony of a building or house or in any other way), or otherwise tempts or endeavour to tempt, or attracts or endeavour to attract the attention of, any person for the purpose of prostitution; or
- (b) Solicits or molests any person, or loiters, or acts in such manner as to cause obstruction or annoyance to persons residing nearby or passing by such public place or to offend against public decency, or the purpose of prostitution,

Shall be punishable on first conviction with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, and in the event of a second or subsequent conviction, with imprisonment for a term which may extend to one year; and also with fine which may extend to five hundred rupees:

Provided that where an offence under this Section is committed by a man he shall be punishable with imprisonment for a period of not less than seven days but which may extend to three months.

9. Seduction of a person in custody - Any person who having the custody, charge or care of or in a position of authority over any person causes or aids or abets the seduction for prostitution of that shall be punishable on conviction with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.

[3][(2) *****]

[4][10 *****]

10-A. Detention in a corrective institution - (1) Where,-

- (a) a female offender is found guilty of an offence under Section 7, and
- (b) the character, state of health and mental condition of the offender and the other circumstances of the case are such that it is expedient that she should be subject to detention for such term and such instruction and discipline as are conducive to her correction,

it shall be lawful for the court to pass, in lieu of a sentence of imprisonment, an order for detention in a corrective institution for such term, not being less than two years and not being more than seven years, as the court thinks fit:

Provided that before passing such an order,-

- (i) the court shall give an opportunity to the offender to be heard and shall also consider any representation which the offender may make to the court as to the suitability of the case for treatment in such an institution, as also the report of the Probation Officer appointed under the Probation of Offender Act, 1958; and

- (ii) the court shall record that it is satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case are such that the offender is likely to benefit by such instruction and discipline as aforesaid.
- (2) Subject to the provisions of sub-section (3), the provisions of the Code of Criminal Procedure, 1973, relating to appeal, reference and revision, and of the Limitation Act, 1963 as to the period within which an appeal shall be filed, shall apply in relation to an order of detention under sub-section (1) as if the order had been a sentence of imprisonment for the same period as the period for which the detention was ordered.
- (3) Subject to such rules as may be made in this behalf, the State Government or authority authorised in this behalf may, at any time after the expiration of six months from the date of an order for detention in a corrective institution, if it is satisfied that there is a reasonable probability that the offender will lead a useful and industrious life, discharge her from such an institution, without condition or with such conditions as may be considered fit, and grant her a written licence in such form as may be prescribed.
- (4) The conditions on which an order is discharged under sub-section (3) may include requirements relating to residence of the offender and supervision over the offenders activities and movements.

11. Notification of address of previously convicted offenders .-

- (1) When any person having been convicted-
 - (a) by a court in India of an offence punishable under this Act or punishable under Section 363, Section 365, Section 366, Section 366-A, Section 366-B, Section 367, Section 368, Section 370, Section 371, Section 372 or Section 373 of the Indian Penal Code (45 of 1860), with imprisonment for a term of two years or up wards; or
 - (b) by a court or tribunal in any other country of an offence which would, if committed in India, have been punishable under this Act, or under any of the aforesaid sections with imprisonment for a like term,

is within a period of five years after release from prison, again convicted of any offence punishable under this Act or under any of those section with, imprisonment for a term of two years or upwards by a court, such court may, if it thinks fit, at the time of passing the sentence of imprisonment on such person, also order that his residence, and any change of, or absence from, such residence, after release, be notified according to rules made under Section 23 for a period not exceeding five years from the date of expiration of that sentence.

- (2) If such conviction is set aside on appeal or otherwise, such order shall become void.
- (3) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.
- (4) Any person charged with a breach of any rule referred to in sub-section (1) may be tried by a Magistrate of competent jurisdiction in the District in which the place last notified as his residence is situated.

[5][12.*****]

13. Special police officer and advisory body -

- (1) There shall be for each area to be specified by the State Government in this behalf a special police officer appointed by or on behalf of that government for dealing with offences under this Act in that area.

- (2) The special police officer shall not be below the rank of a sub-inspector of Police.
- (2-A) The District Magistrate may, if he considers it necessary or expedient so to do, confer upon any retired police or military officer all or any of the powers conferred by or under this Act on a special police officer, with respect to particular cases or classes of cases or to cases generally:
- Provided that no such power shall be conferred on,-
- (a) a retired police officer unless such officer, at the time of his retirement, was holding a post not below the rank of an inspector;
- (b) a retired military officer unless such officer, at the time of his retirement, was holding a post not below the rank of a commissioned officer.
- (3) For the efficient discharge of his functions in relation to offences under this Act,-
- (a) the special police officer of an area shall be assisted by such number of subordinate police officers (including women police officers wherever practicable) as the State Government may think fit; and
- (b) the State Government shall associate with the special police officer a non-official advisory body consisting of not more than five leading social welfare workers of that area (including women social welfare workers wherever practicable) to advise him on questions of general importance regarding the working of this Act.
- (4) The Central Government may, for the purpose of investigating any offence under this Act or under any other law for the time being in force dealing with sexual exploitation of persons and committed in more than one State appoint such number of police officers as trafficking police officers and they shall exercise all the powers and discharge all the functions as are exercisable by special police officers under this Act with the modification that they shall exercise such powers and discharge such functions in relation to the whole of India.
- 13A. (1) The Central Government may constitute an Authority for the purposes of effectively preventing and combating the offence of trafficking in persons.**
- (2) The members of the Authority shall be appointed by the Central Government and shall be of such number and chosen in such manner as may be prescribed.**
- (3) The Chairperson of the Authority shall be one of the members appointed under sub-section (2) to be nominated by the Central Government.**
- (4) The term of office of the members of the Authority, the manner of filling vacancies among and the procedure to be followed in the discharge of their functions by the members shall be such as may be prescribed.**
- 13B. (1) The State Government may constitute an Authority for the purposes of effectively preventing and combating the offence of trafficking in persons.
- (2) The members of the Authority shall be appointed by the State Government and shall be of such number and chosen in such manner as may be prescribed.
- (3) The Chairperson of the Authority shall be one of the members appointed under sub-section (2) to be nominated by the State Government.
- (4) The term of office of the members of the Authority, the manner of filling vacancies among and the procedure to be followed in the discharge of their functions by the members shall be such as may be prescribed.
14. Offences to be cognizable - Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of that Code:
- Provided that, notwithstanding anything contained in that Code,-

- (i) arrest without warrant may be made only by the special police officer or under his direction or guidance, or subject to his prior approval;
- (ii) when the special police officer requires any officer subordinate to him to arrest without warrant otherwise than in his presence any person for an offence under this Act, he shall give that subordinate officer an order in writing, specifying the person to be arrested and the offence for which the arrest is being made; and the latter officer before arresting the person shall inform him the substance of the order and, on being required by such person, show him the order;
- (iii) any police officer not below the rank of sub-inspector specially authorised by the special police officer may, if he has reason to believe that on account of delay involved in obtaining the order of the special police officer, any valuable evidence relating to any offence under this Act is likely to be destroyed or concealed, or the person who has committed or is suspected to have committed the offence is likely to escape, or if the name and address of such a person is unknown or there is reason to suspect that a false name or address has been given, arrest the person concerned without such order, but in such a case he shall report, as soon as may be, to the special police officer the arrest and the circumstances in which the arrest was made.

15. Search without warrant -

- (1) Notwithstanding anything contained in any other law for the time being in force, whenever the special police officer or the trafficking police officer as the case may be, has reasonable grounds for believing that an offence punishable under this Act has been or is being committed in respect of a person living in any premises, and that search of the premises with warrant cannot be made without undue delay, such officer may, after recording the grounds of his belief, enter and search such premises without a warrant.
- (2) Before making a search under sub-section (1), the special police officer or the trafficking police officer, as the case may be shall call upon two or more respectable inhabitants (at least one of whom shall be a woman) of the locality in which the place to be searched is situate, to attend and witness the search and may issue an order in writing to them or any of them so to do:
Provided that the requirement as to the respectable inhabitants being from the locality in which the place to be searched is situate shall not apply to a woman required to attend and witness the search.
- (3) Any person who, without reasonable cause, refuses or neglects, to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under Section 187 of the Indian Penal Code (45 of 1860).
- (4) The special police officer or the trafficking police officer, as the case may be, entering any premises under sub-section (1) shall be entitled to remove there from all the person found therein.
- (5) The special police officer or the trafficking police officer, as the case may be, after removing person under sub-section (4) shall forthwith produce her before the appropriate magistrate.
- (5-A) Any person who is produced before a Magistrate under sub-section (5), shall be examined by a registered medical practitioner for the purposes of determination of the age of such person, or for the detection of any injuries as a result of sexual abuse or for the presence of any sexually transmitted diseases.

Explanation - In this sub-section, "registered medical practitioner" has the same meaning as in the Indian Medical Council Act, 1956 (102 of 1956).

- (6) The special police officer or the trafficking police officer, as the case may be, and other persons taking part in, or attending, and witnessing a search shall not be liable to any civil or criminal proceeding against them in respect of anything lawfully done in connection with, or for the purpose of, the search.
- (6-A) The special police officer or the trafficking police officer, as the case may be, making a search under this section shall be accompanied by at least two women police officers, and where any woman or girl removed under sub-section (4) is required to be interrogated it shall be done by woman police officer and if no woman police officer is available, the interrogation shall be done only in the presence of a lady member of a recognised welfare institution or organization.
- Explanation - For the purposes of this sub-section and Section 17-A, "recognised welfare institution or organisation" means such institution or organisation as may be recognised in this behalf by the State Government.
- (7) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall, so far as may be, apply to any search under this section as they apply to any search made under the authority of a warrant issued under 94 of the said Code.
16. Rescue of person—
- (1) Where a Magistrate has reason to believe from information received from the police or from any other person authorised by State Government in this behalf or otherwise, that any person is living, or is carrying, or is being made to carry on, prostitution in a brothel, he may direct a police officer not below the rank of a sub-inspector to enter such brothel, and to remove therefrom such person and produce her before him.
- (2) The police officer, after removing the person shall forthwith produce her before the Magistrate issuing the order.
17. Intermediate custody, of persons removed under Section 15 or rescue under Section 16 -
- (1) When the special police officer removing a person under sub-section (4) of Section 15 or a police officer rescuing a person under sub-section (1) of Section 16, is for any reason unable to produce her before the appropriate Magistrate as required by sub-section (5) of Section 15, or before the Magistrate issuing the order under sub-section (2) of Section 16, he shall forthwith produce her before the nearest Magistrate of any class, who shall pass such orders as he deems proper for her safe custody until she is produced before the appropriate Magistrate, or, as the case may be, the Magistrate issuing the order:
- Provided that no person shall be,
- (i) detained in custody under this sub-section for a period exceeding ten days from the date of the order under this sub-section; or
- (ii) restored to or placed in the custody of a person who may exercise a harmful influence over her.
- (2) when the person is produced before the appropriate Magistrate under sub-section (5) of Section 15 or the Magistrate under sub-section (2) of Section 16, he shall, after giving her an opportunity of being heard, cause an inquiry to be made as to the correctness of the information received under sub-section (1) of Section 16, the age, character and antecedents of the person and the suitability of her parents, guardian or husband for taking charge of her and the nature of the influence which the conditions in her home are likely to have on her if she is sent home, and, for this purpose, he may direct a Probation Officer appointed under the Probation of Offenders Act, 1958, to inquire into the above circumstances and into the personality of the person and the prospects of her rehabilitation.
- (3) The Magistrate may, while an inquiry is made into a case under sub-section (2), pass such orders as he deems proper for the safe custody of the person:

Provided that where a person rescued under Section 16 is a child, it shall be open to the magistrate to place such child in any institution established or recognised under any Children Act for the time being in force in any State for the safe custody of children:

Provided further that no person shall be kept in custody for this purpose for a period exceeding three weeks from the date of such an order, and no person shall be kept in the custody of a person likely to have a harmful influence over her.

- (4) Where the Magistrate is satisfied, after making an inquiry as required under sub-section(2)-

- (a) that the information received is correct; and
(b) that she is in need of care and protection,

he may, subject to the provisions of sub-section (5), make an order that such person be detained for such period; being not less than one year and not more than three, as may be specified in the order, in a protective home, or in such other custody, as he shall, for reasons to be recorded in writing, consider suitable:

Provided that such custody shall not be that of a person or body of persons of a religious persuasion different from that of the person, and that those entrusted with the custody of the person, including the persons in charge of a protective home; may be required to enter into a bond which may, where necessary and feasible contained undertaking based on directions relating to the proper care, guardianship, education, training and medical and psychiatric treatment of the person as well as supervision by a person appointed by the Court, which will be in force for a period not exceeding three years.

- (5) In discharging his functions under sub-section (2), a Magistrate may summon a panel of five respectable persons, three of whom shall, wherever practicable, be women, to assist him; and may, for this purpose, keep a list of experienced social welfare workers, particularly women social welfare workers, in the field of suppression of immoral traffic in persons.
- (6) An appeal against an order made under sub-section (4) shall lie to the court of Session whose decision on such appeal shall be final.

17-A. Conditions to be observed before placing persons rescued under Section 16 to parents or guardians - Notwithstanding anything contained in sub-section (2) of Section 17, the magistrate making an inquiry under Section 17, may, before passing an order for handing over any person rescued under Section 16 to the parents, guardian or husband, satisfy himself about the capacity or genuineness of the parents, guardian or husband to keep such person by causing an investigation to be made by a recognised welfare institution or organisation.

18. Closure of brothel and eviction of offenders from the premises -

- (1) A Magistrate may, on receipt of information from the police or otherwise, that any house, room, place or any portion thereof within a distance of two hundred metres of any public place referred to in sub-section (I) of Section 7 is being run or used as a brothel by any person, or is being used by prostitutes for carrying on their trade, issue notice on the owner, lessor or landlord or such house, room, place or portion or the agent of the owner, lessor or landlord or on the tenant, lessee, occupier of, or any other person in charge of such house, room, place, or portion, to show cause within seven days of the receipt of the notice why the same should not be attached for improper use thereof; and if, after hearing the person concerned, the Magistrate is satisfied that the house, room, place or portion is being used as a brothel or for carrying on prostitution, then the Magistrate may pass orders,-
- (a) directing eviction of the occupier within seven days of the passing of the order from the house, room, place, or portion;

- (b) directing that before letting it out during the period of one year or in a case where a child has been found in such house, room, place or portion during a search under Section 15, during the period of three years, immediately after the passing of the order, the owner, lessor or landlord or the agent of the owner, lessor or landlord shall obtain the previous approval of the Magistrate;

Provided that, if the Magistrate finds that the owner, lessor or landlord as well as the agent of the owner, lessor or landlord, was innocent of the improper user of the house, room, place, or portion, he may cause the same to be restored to the owner, lessor or landlord or the agent of the owner, lessor or landlord, with a direction that the house, room, place or portion shall not be leased out, or otherwise given possession of, to or for the benefit of the person who was allowing the improper use therein.

- (2) A court convicting a person of any offence under Section 3 or Section 7 may pass orders under sub-section (1), without further notice to such person to show cause as required in that sub-section.
- (3) Orders passed by the Magistrate or court under sub-section (1) or sub-section (2), shall not be subject to appeal and shall not be stayed or set aside by the order of any court, civil or criminal, and the said orders shall cease to have validity after the expiry of one year or three years, as the case may be:

Provided that where a conviction under Section 3 or Section 7 is set aside on an appeal on the ground that such house, room, place, or any portion thereof is not being run or used as a brothel or is not being used by prostitutes for carrying on their trade, any order passed by the trial court under sub-section (1) shall also be set aside.

- (4) Notwithstanding anything contained in any other law for the time being in force, when a Magistrate passes an order under sub-section (1), or a Court passes an order under sub-section (2), any lease or a agreement under which the house, room, place or portion is occupied at the time shall become void and inoperative.
- (5) When an owner, lessor or landlord or the agent of such owner, lessor or landlord fails to comply with a direction given under clause (b) of sub-section (1) he shall be punishable with fine which may extend to five hundred rupees or when he fails to comply with a direction under the proviso to that sub-section, he shall be deemed to have committed an offence under clause (b) of sub-section (2), of Section 3 or clause (c) of sub-section (2) of Section 7, as the case may be, and punished accordingly.

19. Application for being kept in a protective home or provided care and protection by court –

- (1) A person who is carrying on, or is being made to carry on prostitution, may make an application, to the Magistrate within the local limits of whose jurisdiction she is carrying on, or is being made to carry on prostitution, for an order that she may be-

- (a) kept in a protective home, or
(b) provided care and protection by the court in the manner specified in sub-section (3).

- (2) The Magistrate may pending inquiry under sub-section (3) direct that the person be kept in such custody as he may consider proper, having regard to the circumstances of the case.

- (3) If the Magistrate after hearing the applicant and making such inquiry as he may consider necessary, including an inquiry by a Probation Officer appointed under the Probation of Offender Act, 1958, (20 of 1958) into the personality, conditions of home and prospects of rehabilitation of the applicant, is satisfied that an order should be made under this section, he shall for reasons to be recorded, make an order that the applicant to be kept:

- (i) in a protective home, or
(ii) in a corrective institution, or

- (iii) under the supervision of a person appointed by the Magistrate for such period as may be specified in the order.

21. Protective homes -

- (1) The State Government may in its discretion establish as many protective homes and corrective institutions under this Act as it thinks fit and such homes and institutions when established shall be maintained in such manner as may be prescribed.
- (2) No person or no authority other than the State government shall, after the commencement of this Act, establish or maintain any protective home or corrective institution except under and in accordance with the conditions of, a licence issued under this section by the State Government.
- (3) The State Government may, on application made to it in this behalf by a person or authority, issue to such person or authority a licence in the prescribed form for establishing and maintaining or as the case may be, for maintaining a protective home or corrective institution and a licence so issued may contain such conditions as the State Government may think fit to impose in accordance with the rules made under this Act: Provided that any such condition may require that the management of the protective home or corrective institution shall, wherever practicable, be entrusted to women: Provided further that a person or authority maintaining any protective home at the commencement of this Act shall be allowed a period of six months from such commencement make an application for such licence: Provided also that a person or authority maintaining any corrective institution at the commencement of the Suppression of Immoral Traffic in Women and Girls (Amendment) Act, 1978, shall be allowed a period of six months from such commencement to make an application for such licence.
- (4) Before issuing a licence, the State Government may require such officer or authority as it may appoint for this purpose, to make a full and complete investigation in respect of the application received in this behalf and report to it the result of such investigation and in making any such investigation the officer or authority shall allow such procedure as may be prescribed.
- (5) A licence, unless sooner revoked, shall remain in force for such period as may be specified in the licence and may, on application made in this behalf atleast thirty days before the date of its expiration, be renewed for a like period.
- (6) No licence issued or renewed under this Act shall be transferable.
- (7) Where any person or authority to whom a licence has been granted under this Act or any grant or servant of such person or authority commits a breach of any of the conditions thereof or any of the provisions of this Act or of any of the rules made under this Act, or where the State Government is not satisfied with the conditions, management or superintendence or any protective home or corrective institution the State Government may, without prejudice to any other penalty which may have been incurred under this Act, for reasons to be recorded, revoke the licence by order in writing; Provided that no such order shall be made until an opportunity is given to the holder of the licence to show cause why the licence shall not be revoked.
- (8) Where a licence in respect of a protective home or corrective institution has been revoked under the foregoing sub-section such protective home or corrective institution shall cease to function from the date of, such revocation.
- (9) Subject to any rule that may be made in this behalf, the State Government may also vary or amend any licence issued or renewed under this Act.

(9-A) The State Government or any authority authorised by it in this behalf may, subject to any rules that may be made in this behalf, transfer an inmate of a protective home to another protective home or to a corrective institution or an inmate of a corrective institution to another corrective institution or to a protective home, where such transfer is considered desirable having regard to the conduct of the person to be transferred, the kind of training to be imparted and other circumstances of the case:

Provided that -

- (i) no person who is transferred under this sub-section shall be required to stay in the home or institution to which she is transferred for a period longer than she was required to stay in the home or institution from which she was transferred;
 - (ii) reasons shall be recorded for every order of transfer under this sub-section.
- (10) Whoever establishes or maintains a protective home or corrective institution except in accordance with the provisions of this section, shall be punishable in the case of a first offence with fine which may extend to one thousand rupees and in the case of second or subsequent offence with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

21-A. Production of records - Every person or authority who is licensed under sub-section (3) of Section 21 to establish or maintain, or, as the case may be, for maintaining, a protective home or corrective institution shall whenever required by a Court, produce the records and other documents maintained by such home or institution before such court.

22. (1) Trials - No Court, inferior to that of a Metropolitan Magistrate or a Judicial magistrate of the first class, shall try any offence under Section 3, Section 4, Section 5, Section 5B, Section 5C, Section 6 or Section 7.
- (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the trial of the proceedings under this Act shall be conducted *in camera*.

22-A. Power to establish special Courts -

- (1) If the State Government is satisfied that it is necessary for the purpose of providing for speedy trial of offences under this Act in any district or metropolitan area, it may, by notification in the official Gazette and after consultation with the High Court, establish one or more Courts of Judicial Magistrates of the first class, or, as the case may be, Metropolitan Magistrate, in such district or metropolitan area.
- (2) Unless otherwise directed by the High Court, a court established under sub-section (1) shall exercise jurisdiction only in respect of cases under this Act.
- (3) Subject to the provisions of sub-section (2), the jurisdiction and powers of the presiding officer of a court established under sub-section (1) in any district or metropolitan area shall extend throughout the district or the metropolitan area, as the case may be.
- (4) Subject to the foregoing provisions of this section, a Court established under sub-section (1) in any district or metropolitan area shall be deemed to be a court established under sub-section (1) of Section 11, or, as the case may be, sub-section (1) of Section 16 of the Code of Criminal Procedure, 1973 (2 of 1974) and provisions of the Code shall apply accordingly in relation to such courts.

Explanation - In this section, "High Court" has the same meaning as in clause (e) of Section 2 of the Code of Criminal Procedure, 1973.

[6] [22-AA. Power of Central Government to establish special courts -

- (1) If the Central Government is satisfied that it is necessary for the purpose of providing for speedy trial of offences under this Act and committed in more than one **State**, it may, by notification in the official Gazette and after consultation with the High Court

concerned, establish one or more courts of Judicial Magistrates of the first class or Metropolitan Magistrates for the trial of such offences.

- (2) The provisions of Section 22-A, shall, so far as may be, apply to the courts established under sub-section (1), as they apply to Courts established under that section.

22-B. Power of court to try cases summarily - Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the State Government may, if it considers it necessary so to do, direct that offences under this Act shall be tried in a summary way by a Magistrate including the presiding officer of a court established under sub-section (1) of Section 22-A and the provisions of Section 262 to 265 (both inclusive) of the said Code, shall, as far as may be, apply to such trial:

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year:

Provided further that when at the commencement of, or in the course of a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall, after hearing the parties record an order to that effect and thereafter recall any witness, who may have been examined and proceed to hear or re-hear the case in the manner provided by the said Code].

23. Power to make rules -

- (1) The State Government may, by notification in the official Gazette, make rules for carrying on the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for:
- (a) the notification of any place as a public place;
 - (b) the placing in custody of persons for whose safe custody orders have been passed under sub-section (1) of Section 17 and their maintenance;
 - (bb) the discharge of an offender under sub-section (3) of Section 10-A from a corrective institution and the form of licence to be granted to such offender;
 - (c) the detention and keeping in protective homes or, as the case may be, in corrective institutions or person under this Act and their maintenance;
 - (d) the carrying out of the provisions of Section II regarding notification of residence or change of or absence from residence by released convicts;
 - (e) the delegation of authority to appoint the special police officer under sub-section (1) of Section 13;
 - (f) the carrying into effect of the provisions of Section 18;
 - (g) (i) the establishment, maintenance, management and superintendence of protective homes and corrective institutions under Section 21 and the appointment, powers and duties of persons employed in such home or institution;
 - (ii) the form in which an application for a licence may be made and the particulars to be contained in such application;
 - (iii) the procedure for the issue or renewal of a licence, the time within which such licence shall be issued or renewed and the procedure to be followed in making a full and complete investigation in respect of an application for licence;
 - (iv) the form of a licence and the condition to be specified therein;

- (v) the manner in which the accounts of a protective home and a corrective institution shall be maintained and audited;
 - (vi) the maintenance of registers and statements by a licensee and the form of such registers and statements;
 - (vii) the care, treatments, maintenance, training, instruction, control and discipline of the inmates of protective home and corrective institutions;
 - (viii) the visits to and communications with inmates;
 - (ix) the temporary detention of persons sentenced to detention in protective homes or in corrective institution until arrangements are made for sending them to such homes or institutions;
 - (x) the transfer of an inmate from:
 - (a) protective home to another, or to a corrective institution,
 - (b) one corrective institution to another, or to a protective home, under sub-section (9-A) of Section 21;
 - (xi) the transfer in pursuance of an order of the Court from a protective home or a corrective institution to a prison of a person found to be incorrigible or exercising bad influence upon other inmates of the protective home or the corrective institution and the period of her detention in such prison;
 - (xii) the transfer to a protective home or corrective institution of persons sentenced under Section 7 and the period of their detention in such home or institution;
 - (xiii) the discharge of inmates from a protective home or corrective institution either absolutely or subject to conditions, and their arrest in the event of breach of such conditions;
 - (xiv) the grant of permission to inmates to absent themselves for short periods;
 - (xv) the inspection of protective homes and corrective institutions and other institutions in which a persons may be kept, detained and maintained;
 - (ga) number of the members of the Authority and the manner in which such members shall be chosen for appointment under sub-section (2) of section 13B;
 - (gb) the term of office of the members of the Authority and the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by, the members under sub-section (4) of section 13B;
 - (h) any other matter which has to be, or may be prescribed.
- (3) In making any rule under clause (d) or clause (g) or sub-section (2), the State Government may provide that a breach thereof be punishable with fine which may extend to two hundred and fifty rupees.
- (4) All rules made under this Act shall, as soon as may be after they are made, be laid before state Legislature.
- 23A. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for -
- (a) the number of the members of the Authority and the manner in which such members shall be chosen for appointment under sub-section (2) of section 13A;
 - (b) the term of office of the members of the Authority, the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by the members under sub-section (4) of section 13A.
- (3) Every rule made by the Central Government 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, 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.

24. Act not to be in derogation of certain other Acts - Nothing in this Act shall be construed to be in derogation of the provisions of the Reformatory Schools Act, 1897 or any State Act enacted in modification of the said Act or otherwise, relating to juvenile offenders.
25. Repeal and savings –
- (1) As from the date of the coming into force in any State of the provisions other than Section 1 of this Act, all State Acts relating to suppression of immoral traffic in persons or to the prevention of prostitution, in force in that State immediately before such date shall stand repealed.
 - (2) Notwithstanding the repeal by this Act, of any State Act referred to in sub-section (I), anything done or any action taken including any direction given in any register, rule or order made, any restriction imposed) under the provision of such State Act shall in so far as such thing or action is not inconsistent with the provisions of this Act be deemed to have been done or taken under the provisions of this Act as if the said provisions were in force when such thing was done or such action was taken and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

Explanation - In this section, the expression 'State Act includes a 'Provincial Act'.

THE SCHEDULE

[See Section 2(c)]

Section Magistrate competent to exercise the powers

7(1) District Magistrate.

11 (4) Metropolitan Magistrate of Judicial Magistrate of the first class.

12 (4) [7] [*****]

15(5) Metropolitan Magistrate, Judicial Magistrate of the first class, District Magistrate or Sub-divisional Magistrate.

16 Metropolitan Magistrate, Judicial Magistrate of the first class, District Magistrate or Sub-divisional Magistrate.

18 District Magistrate or Sub-divisional Magistrate.

19 Metropolitan Magistrate, Judicial Magistrate of the first class, District Magistrate or Sub-divisional Magistrate.

22-B Metropolitan Magistrate of Judicial Magistrate of the first class.

[1] Sub-section (e) omitted by Act No 46 of 1978.

[2] Sub-sec. (2) omitted by Act No. 44 of 1986.

[3] Sub-section (2) omitted by Act No. 44 of 1986.

[4] Sec. 10 omitted by Act No. 44 of 1986.

[5] Section 12 omitted by Act No. 44 of 1986.

[6] Ins. by Act No. 44 of 1986 (w.e.f. 26-1-1987).

[7] Figures and words omitted by Act No 44 of 1986 (w.e.f. 2-6-1987).

THE ¹[PREVENTION OF IMMORAL TRAFFIC] (ORISSA) RULES, 1959

Notification No 4532 - P, dated 5th March 1959 - In exercise of the powers conferred by Section 23 of ¹[the Immoral Traffic (Prevention)] Act, 1956 (104 of 1956), the State Government do hereby make the following rules, namely:

Published Vide Notification No 4532 - P/Date 05/03/1959

1 Substituted Vide Orissa Gazette Part -IIIA No 3 date 20/01/1995

1) Short title and Commencement: -

- (1) These rules may be called the ¹[Prevention of Immoral Traffic] (Orissa) Rules, 1959
- (2) They shall come into force at once.

2) Definitions -

In these rules, unless the context otherwise requires

- a. "Act" means ¹[the Immoral Traffic (Prevention)] Act, 1956;
- b. "Board" means the Board of Visitors appointed by the State Government under Rule 14;
- c. "Chief Inspector" means the person appointed as such by the State Government to discharge the functions of the Chief Inspector under these rules;
- d. "Licence" means a licence granted under Section 21;
- e. "Forms" means a form appended to these rules;
- f. "Section" means a section of the Act; and
- g. "Superintendent" means the principal officer in charge a protective home and includes any person specially appointed to discharge the functions of a Superintendent under these rules.

3) Manner of notifying public places -

A copy of every order of the Superintendent of Police or the District Magistrate notifying place to be a public place under Section 7(1) shall be affixed to a conspicuous part of the public court house of the District Magistrate, as the case may be.

4) Placing of [child or minors] in safe custody -

- (1) Where a responsible and trust-worthy person belonging to the same religious persuasion as that of a ¹[child or minor] produced before a Magistrate under Sub-Section (1) of the Section 17 is willing to take charge of the ¹[child or minor] and the Magistrate, acting under Sub-section (1) or Sub-section (2) of that Section, passes an order placing the ¹[child or minor] in the safe custody of that person, such person shall execute before the Magistrate an undertaking in Form I.
- (2) If the person in whose custody the ¹[child or minor] is placed is no longer willing to fulfil the conditions of the undertaking, he may apply to the Magistrate for releasing him from the obligation to keep the [child or minor] in his custody.

5) Detention of woman or [child or minor] protective home -

Where, in the pursuance of ²[***] Sub-section (2) of Section 17, or Sub-section (2) of Section 19 a Magistrate passes an order directing that a woman or ¹[child or minor] be detained in a protective home, a warrant of detention in Form II shall be prepared in duplicate and shall be forwarded to the Superintendent of the protective home who shall retain one copy and return the other to the Magistrate after making an endorsement therein that the woman or ¹[child or minor] referred to in the warrant has been duly taken in his charge.

6) **Notification of residence etc, by convicted offenders -**

1. A convicted offender who has been ordered by the Court under Section 11 to notify his residence or nay change of, or absence from, such residence shall immediately after his release, report himself to the police officer having jurisdiction over his place or residence and shall also leave his correct address with such police officer. Thereafter, he shall report himself to such police officer once in every month till the expire of the period for which he is required to notify his residence.
2. When any such offender intends to change his place of residence, he shall intimate his intention to the police officer having jurisdiction over his place of residence and also furnish to him the correct address of the intended place of residence. In every such case, the police officer shall send to the police officer having jurisdiction over the new place of residence a report of the intended change of residence together with full particulars of the convicted offenders.
3. As soon as the offender takes up his residence in the new place, he shall report himself to the police officer having jurisdiction over the place and shall also report himself to such officer once in every month till the expiry of the period for which he is required to notify his residence.
4. If for any reason, the offender does not change his place of residence as originally intended he shall report the fact to the police officer having jurisdiction together with the reason for such change of intention.
5. The provisions of Sub-rules (2), (3) and (4) shall apply to temporary absence from the place of residence for any period exceeding seven days:
Provided that, in the case of temporary absence the convicted offender shall again report to the police officer as soon as he returns to the usual place of residence.
6. Any person who commits breach of any of sub-rules (1) to (5) shall be punishable with fine which may extend to two hundred and fifty rupees.

Explanation - In this rule, 'Police Officer' mans the officer in charge of the police station.

- 1 Substituted vide Orissa Gazette Part -IIIA No 3 date 20/01/1995
- 2 Omitted vide Orissa Gazette Part - IIIA No 3 dated 20/01/1995

7. **Licensing of protective homes -**

1. Application for a licence under Section 21 (3 shall be made in Form III to the State Government.
2. On receipt of an application for a licence, the State Government shall cause full and complete investigation to be made through an officer or authority appointed in this behalf before issuing the licence. The said officer or authority before reporting on the application the State Government shall record the statements of the applicant or applicants and the special Police Officer appointed for the area. In addition, he may make enquiries from such social welfare workers or respectable persons of the locality as he may deem necessary. The State Government, if satisfied, that the applicant or applicants is or are fit person or persons to whom a licence may be granted, may grant a licence in Form IV, which if grante will remain in force for a period of one year.
3. An application for the renewal of a licence shall be made in Form V at least thirty days before the date of its expiration. The licence may thereupon be renewed for a like period.
4. No licence issued or renewed under this rules shall be transferable.

5. The management of every licensed home shall, wherever practicable, be entrusted to women.
6. The licensee shall comply with all the conditions of the licence and the provisions of ¹[Prevention of Immoral Traffic] (Orissa) Rules, 1959 and shall maintain all registers accounts in the manner hereinafter laid and shall submit all statements and returns as prescribed in the rules.

8. Admission into protective homes -

1. On the admission of a woman or a [child or minor] into a protective home under the provisions of the Act, she shall be examined by the Superintendent, who shall record in the Inmate's Register in Form VI the particulars required to be shown in that register.
2. The woman or [child or minor] into a protective home shall then be supplied with a new set of cloth and the clothes worn by her at the time of admission shall be destroyed, if they are in rags or in filthy and verminous condition. The clothing of every woman and [the child or minor] to be detained for a period of two years or more shall, if they are not liable to be destroyed, be sold and the proceeds credited to the personal account of the woman or [child or minor] shall be returned to the parents, guardians or relatives of the woman or [child or minor] and if is not possible to do so, shall be washed, tied up in a bundle and stored and returned to the woman or [child or minor] on her discharge. She shall be given a bath, which shall be of a disinfecting nature.
3. The Superintendent or some other official of the protective home considered suitable by such Superintendent shall then take the woman or [child or minor] to the nearest hospital for examination. If there is no hospital within a reasonable distance the medical examination of the woman or [child or minor] shall be conducted by the nearest qualified lady doctor. ²[If the inmate is a male, he shall be examined by male Doctor].
4. Women or [child or minor] found to be suffering from any venereal disease shall be kept as far as possible separate from the other inmates of the protective home. Women or [child or minor] is suffering from minor ailments shall be treated by the Medical Officer of the protective home. If any woman or [child or minor] is suffering from serious illness she shall be taken to the nearest hospital immediately for admission and report shall immediately be sent to the Superintendent of Police of the district and to the nearest Magistrate in other cased. A copy of the report shall be simultaneously sent to the Chief Inspector.

2 Added *ibid*

9) Admission of children accompanying inmates into protective homes -

1. A child below seven years of age in the case of its mother who is detained or order to be kept in the protective home may also be admitted to home along with her, if it cannot be placed with its relatives or otherwise properly provided for. If any question arises as to child is below seven of age or not, such question shall be determined by the Superintendent.
2. A child born in the home after the admission of the inmate into the protective home may remain with her.
3. No child shall be kept in the protective home if it has completed the age of seven years. On a child completing such age, the Superintendent shall intimate the fact to the Chief Inspector with a view to his making arrangements, if possible, to place the child with its relatives.
4. A child kept in the protective home shall be allowed such diet and clothing as the medical officer attached to the protective home may think fit.

10) History Ticket -

A record hereinafter referred to as history ticket shall be maintained in respect of each inmate in Form VII.

11) Medical examination -

Every inmate shall be medically examined and weighed once in every month and the result of such examination and weighing shall be recorded in the history ticket of the inmate. A statement in Form VII shall be submitted before the 10th of every month to the Chief Inspector showing the weighing statistics of the protective home.

12) Strength of establishment of protective homes -

The strength of the establishment including medical officer of each protective home, whether established or licensed by the State Government shall be determined by the State Government from time to time in consultation with the Chief Inspector. The State Government, in consultation with the Chief Inspector, may also assign duties to them. Necessary arrangements for medical aid of the inmates shall be made by the State Government in consultation with the Chief Inspector.

13) Superintendent -

The Superintendent shall generally be responsible for the observance of all Rules and Orders, the supervision of the subordinate staff and the maintenance of discipline among the inmates. He/she shall in his/her own hand writing, maintain an office journal in which shall be recorded daily, every occurrence of importance connected with the management of the homes, which is not otherwise disposed of in the registers of correspondence and which it is desirable to note for future guidance. The journal shall be forwarded to the Chief Inspector at the end of the month, who shall immediately return it after perusal with such remarks as he/she may consider necessary.

14) Duties of superintendent-

The following duties, in addition to other duties assigned by the State Government, from time to time, appertain to the Superintendent:

- i. The Superintendent shall be in charge of general supervision and sanitation of the home and the health of inmates;
- ii. The Superintendent shall be responsible for the discipline of the subordinate staff;
- iii. The Superintendent shall be in charge of maintaining general accounts disbursing bills, cost of jewellery, cash and other belongings of the inmates;
- iv. The Superintendent shall be in charge of office correspondence, interviews with visitors and showing them round the home;
- v. The Superintendent shall arrange meetings of the Board of Visitors and submit immediately the reports of the meetings to Chief Inspector;
- vi. The Superintendent shall make surprise inspection of provision stores at least once a month, shall visit the home at uncertain hours and check that everything is in order.
- vii. The Superintendent shall be responsible for submitting statements and returns under these rules in addition to such statements and returns as may be prescribed by the State Government in consultation with Chief Inspector from time to time;
- viii. The Superintendent may grant casual leave to the subordinate staff;
- ix. The Superintendent shall visit the home at least twice a month at uncertain intervals;

- x. The Superintendent shall be responsible for the purchase of provisions and by informing himself/herself of the current bazaar rates shall satisfy himself/herself that the full amount of food is purchased and the rates are reasonable. He/she shall also see the rations weight and served out the cooks, and shall, with medical officer, inspect the food daily, when it is cooked and ready for distribution, to make sure that it is properly cooked and that the full quantity reaches the inmates. The result of the Superintendent's inspection of food shall be noted in the office journal;
- xi. The Superintendents shall be responsible for all property of the protective home and all money and stores received.

15) Weekly Inspector's Inspections -

1. On the one morning in every week, which shall usually be Monday, the Superintendent shall hold an inspection parade of all the inmates at which the Medical Officer shall also be present. At each such parade, the Superintendent shall satisfy himself/herself -
 - a. that every inmate is provided with proper clothing and bedding;
 - b. that they are clean and tidy; and
 - c. that the rules and orders applicable to inmates are being duly carried out.
2. The superintendent shall, at every such parade, hear and enquire into any complaints and request that the inmates may wish to make. It shall be his/her duty to hear the complaints and requests patiently and to afford them reasonable facilities from making such complaints and requests;
3. Nothing in this rule shall debar any inmate from making a complaint or request to the Superintendent at other times than at the weekly parade, and it shall be the duty of every member of the staff to produce before the Superintendent without delay any inmate desiring to see him/her.

16) Documents to be kept in the personal custody of the Superintendent -

The following documents shall be kept in the personal custody of the Superintendent:

- a. Contract agreement bonds;
- b. Contractors' and subordinates' security deposit receipts or Post Office Savings Bank Account Books and Post Office cash certificate;
- c. Personal files, Service Books and Character rolls of the staff.

17) Previous sanction required to leave station by Superintendent -

Without the written sanction of the Chief Inspector the Superintendent shall, on no account, absent himself/herself from the station.

18) Office order book -

The superintendent shall maintain an order book for the protective home in which he/she shall record all standing orders issued to his/her subordinates from time to time. He/she shall by an order allot the various duties to his/her subordinates and may, by a subsequent order, vary such allotments.

19) Duties of the Medical Officer of protective home -

1. In addition to such other duties as may be assigned to the Medical Officer of a protective home that the State Government from time to time in consultation with the Chief Inspector, the Medical Officer shall visit the protective home every day except on Sundays and other holidays; on Sundays and holidays also, when necessary. He/she shall attend to the health and cleanliness of the inmates, the treatment of the sick, the sanitation of the

protective home, general inspection and supervision of food and all other matters connected directly or indirectly with the health of the staff and inmates of the home.

2. On each visit to the protective home, the Medical Officer shall enter his/her remarks in the register in Form IX.
3. The Medical Officer shall accompany the Chief Inspector during his/her inspection of the protective homes.
4. During the absence of the Superintendent on short leave (other than casual leave) or during a vacancy in the post of the Superintendent for a short period, the Medical Officer, with the previous approval of the Chief Inspector may act as the Superintendent, in addition to his/her own duties.

20) Educational and vocational training of the inmates of protective homes -

1. Provision may be made for general education in all protective homes. Besides general education, each protective home shall, as far as possible, provide for the vocational training of the inmates, the wishes of each inmate being consulted, as far as possible, as to the particular training she shall undergo. Suitable employment, which shall include house work, sewing, weaving, spinning and the like may be provided. All courses of training shall be approved by the Chief Inspector.
2. Teachers shall be engaged for imparting general education and instructors appointed for giving vocational training to the inmates. In an emergency, the Superintendent may direct such teachers and instructors to attend to executive or administrative duties.

21) Daily routine of protective homes-

The following daily routine shall be observed in the protective homes:

5.30AM to 6:30 AM in warm months	...	Visit to the latrines
& 6:30AM to 7:30 AM in colder months	...	Ablutions, bath and toilet
7.30 AM to 7.45 AM	...	Morning Prayers
7:45AM to 8:15 AM	...	Breakfast
8:15 AM to 9:30 AM	...	Washing personal clothes
10:00AM to 1PM	...	School or workshop
1PM to 2PM	...	Lunch and Rest
2PM to 4:30PM	...	Needlework and handicraft or workshops
4:30PM to 6:30PM	...	Games, gardening and bath
6:30PM to 6:45PM	...	Evening prayer
6:45PM to 7:30PM	...	Night meal
7:30PM to 9:30PM	...	Study or reading

NOTE - Daily routine may be suitable modified on Sunday and other gazetted holidays. Saturday shall be observed as half holidays.

22) Diet of inmates in protective homes -

All inmates of protective homes shall have diet in accordance with scale to be fixed by the State Government and instruction issued by them in this behalf.

23) Supply of clothing etc to inmates or protective homes -

1. Each inmate shall be supplied with a steel box, an unbreakable plate, tumbler and mirror.

2. Clothing and bedding to inmates shall be supplied in accordance with the scale to be fixed by the State Government.
3. Every inmate shall be given for the purpose of washing clothes half a bar of washing soap per month and for bathing purposes half a cake of toilet soap per month and 304 oz of soap-nut powder per week. Every inmate shall also be provided with four grams of oil daily for dressing of hair and half an ounce of oil once a week for oil bath.

A sufficient number of mirrors shall be placed in each dormitory.

24) Living space for inmates of protective homes -

Every inmate shall have a separate bed with a flat space of not less than 8'x5' per bed. A place shall be allotted for every inmate in the dormitory.

25) Religious and moral institution -

1. The protective homes shall not be used as a means of fostering any one religion at the expense of others and the principle of secularism shall be maintained strictly.
2. Religious and moral instructions to inmates of protective homes shall be allowed on condition that no proselytising is carried on under the cloak of such instruction and that nothing is done to make the inmates away from the religion professed by them. The instruction may be in the form of prayer, worship and occasional bhajans with music.
3. The Superintendent shall endeavour to secure the services of honorary instructors; and in their absence the senior members of the staff, preferably the teachers shall be deputed to impart religious and moral instructions to the inmates of their own faith at least once a week.

26) Libraries for protective homes -

Every protective home shall be provided with a library of suitable books with a catalogue. The choice of books shall be made by the superintendent and approved by the Chief Inspector, who will be responsible for the suitability of the books chosen.

27) Attendance of the inmates of protective homes before police or Magistrate -

Any inmate whose attendance is required before the police or before a Court shall be permitted to leave the protective home for the purpose, only on receipt of a written requisition signed by the Superintendent of Police and by the police officer not below the rank of a Deputy Superintendent of Police elsewhere or of a summons issued by the Court of a competent jurisdiction. The inmate shall in such cases be accompanied by the Superintendent or by any other members of the staff considered suitable by the Superintendent.

28) Escape and recapture of inmates of protective homes -

1. The Superintendent shall give immediate notice of the escape or recapture of any inmate of the home to -
 - a. the Chief Inspector;
 - b. the nearest police station; and
 - c. the Superintendent of Police in case the protective home is situated in his jurisdiction and District Magistrate elsewhere.
2. On receipt of a notice of escape under Sub-rule (1) the Officer-in-Charge of the police station shall take necessary steps to recapture the inmate and to bring her back to the home from which she escaped.

29) Death of inmates of protective homes -

In case of death of any of the inmates, the Superintendent shall immediately report the circumstances of the case to the Superintendent of Police of the District and to the nearest Magistrate elsewhere. Copies of the report shall also be sent to the Chief Inspector, and to the parents or guardians or relatives, as the case may be of the inmate.

30) Transfer of inmates -

1. The Chief Inspector may for any of the following reasons, to be recorded in writing, order the transfer of an inmate detained in a protective home to any other protective home:
 - a. when the transfer is for the welfare of the inmate or is in the interest of discipline;
 - b. when there is no accommodation in the protective home; or;
 - c. for any other special reasons.
2. The Superintendent shall, before effecting such transfer, satisfy himself/herself that the inmate to be transferred is in a fit state of health to undergo the transfer.
3. The inmate shall be escorted by a woman employe of the protective home considered suitable for the purpose by the Superintendent of the home. The Superintendent may, if necessary, take the assistance of the Special Police Officer of the area.
4. All the records and personal property, if any, relating to the inmate transferred shall be handed over to the escort to the delivered to the Superintendent of the protective home to which the inmate is transferred.
5. The Superintendent of the home to which the inmate is transferred shall, on the arrival of the inmate and after due verification acknowledge the correct receipt of the documents and property.
6. The total period of detention or stay of an inmate ordered by the Court shall on no account be increased by any transfer under Sub-rule (1)

31) Visit to and communications with the inmates of protective home

1. No inmate shall be allowed to see visitors or receive letters without the express permission of the Superintendent and no male visitor shall be permitted to interview any of the inmates except in the presence of the Superintendent or any other member of the staff of the home so authorised by the Superintendent in this behalf.
2. Every inmate newly admitted to a protective home all be allowed reasonable facilities for seeing or communicating with her relatives, friends or legal advisors with a view to the preparation of an appeal.
3. Parents and guardians may visit inmates of a protective home on Saturdays and Sundays between 4PM and 6PM. For very urgent reasons, visitors may be allowed on other days and at other times with the special permission of the Superintendent. The privilege of receiving visitors may be refused on the orders of the Superintendent as a punishment for misconduct by the inmate, or if it is used to introduce any prohibited article into the home or if the parents or guardian has or is likely to have, in the opinion of the Superintendent, a bad influence on an intimate or inmates or for any other sufficient cause. The Superintendent shall record his/her reasons for such refusal in the official journal.
4. Every inmate shall be allowed to write or receive a letter once a moth during the period of the detention or stay in the home, subject to the condition of good conduct.
5. If the address of the parents or guardians is known, they shall be given notice of any serious illness of the inmates and the Superintendent shall answer any reasonable enquiries made by the parents or guardians.

6. Inmates shall be allowed, if they so desire to write special letter in order to inform the parents or guardians of their transfer from one protective home to another. This shall not be counted as a letter for the purpose of Sub-rule (4).
7. No letter shall be delivered to or sent by an intimate unless the Superintendent has satisfied himself/herself that its transmission is unobjectionable.
8. The Superintendent may at his/her discretion grant interviews or allow the despatch or receipt of letters at short intervals than those provided in Sub-rule (4) in spite of the inmates' misconduct, if he/she considers that special or urgent grounds exist for such concession.
9. A register shall be maintained by the Superintendent for recording the visits of parents or guardians of the inmates of the home in cases of refusal.
10. A register of correspondence between the inmates and their parents and guardians shall be maintained.

32) Permission to inmates to absent themselves for short periods from protective homes -

With the previous sanction of the Chief Inspector in very special cases, the Superintendent may grant to any inmate leave of absence for a period not exceeding a week on the death of the parent or to visit the parent or guardian who is seriously ill. The chief Inspector may extend the leave granted, by a period not exceeding two weeks. The leave granted at any time be cancelled without assigning any reasons and the inmate recalled.

33) Discipline and punishment -

1. The following acts are forbidden in a protective home and every inmate who wilfully commits any of them shall be deemed to have wilfully disobeyed the regulations of the protective home
 - a. quarrelling with any other inmate;
 - b. any assault or use of criminal force;
 - c. use of insulting, obscene or threatening language;
 - d. immoral or indecent or disorderly behaviour;
 - e. wilfully disabling herself for labour;
 - f. contumaciously refusing to work;
 - g. wilful idleness and negligence at work;
 - h. wilful damage to the home property.
 - i. wilful mismanagement of work;
 - j. tampering with or defacing history tickets, records, documents or tools;
 - k. receiving, possessing or transferring any prohibited article;
 - l. feigning illness;
 - m. wilfully brining a false accusation against any officer or inmate;
 - n. omitting or refusing to report, as soon as it comes to her knowledge, the occurrence of any fire, any plot or conspire any escape, attempt or preparation to escape or any attacked or preparation for attack upon any inmate or official of the home;
 - o. conspiring to escape or to assist in escaping;
 - p. answering untruthfully any question put by an office of the home or a visitor;
 - q. refusing to eat food or wilfully destroying food;
 - r. committing a nuisance in any part of the home;

2. The Superintendent may award any of the following punishments for the act or acts specified in Sub-rule (1);
 - a. deprivation of play hours;
 - b. temporary cessation of visits from parents or guardians; and
 - c. change to labour of severe nature for a period not exceeding three months.
3. A Punishment Book shall be maintained by the Superintendent, who shall record full particulars of the punishments inflicted by him/her together with the nature of offences, the names of the offenders and the number of various punishments awarded to them.
4. An extract from the Punishment Books shall be sent by the Superintendent to the Chief Inspector before the 10th of every month.

34. Prohibited articles -

Liquor, intoxicating drugs including opium and *ganja* shall be the prohibited articles and shall not be introduced, received, possessed or transferred in the protective home.

35) Treatment of mental cases-

When an inmate of a protective home is sent to a Government Mental Hospital for observation or treatment, action shall be taken by the Superintendent under Section 6(2) of Indian Lunacy Act, 1912 (4 of 1912) for obtaining reception orders. An inmate who is taken to the Government Mental Hospital with such reception order shall be treated as a 'Civil Patient'.

36) Removal to civil hospitals for treatment -

1. Whenever the Medical Officer of a protective home considers it necessary to remove an inmate to a Civil Hospital for treatment as an indoor patient, he shall draw up a full statement of the case and forward the same to the Superintendent, who shall forthwith cause the inmate concerned to be sent to the hospital temporarily.
2. The inmate shall immediately proceed under escort to the Hospital and present herself to the Officer-in-Charge of Hospital.
3. The inmate shall be an indoor patient in the Hospital and shall not leave it until formally discharged there from.
4. The authorities of the Hospital shall give intimation to the Superintendent concerned before discharging the inmate from Hospital. On receipt of intimation, the Superintendent shall arrange for an escort to fetch the inmate. The railway warrant, subsistence allowance, but or other fare and any other allowances necessary for the inmates and the escort shall be given to the escort so arranged by the Superintendent. Such charges shall also be paid to the escort while removing the inmate from the protective home to the Hospital.
5. When an inmate is removed for treatment to a Civil Hospital, no charges shall be made against the protective home for the treatment and diet given to the inmate in the Hospital.

37) Period spent in hospital -

When an inmate is sent to a Government Mental Hospital or as an indoor patient to a Civil Hospital, the period spent by her in such Hospitals and in going there and return there from shall be deemed to be part of the period of her detention or stay in the protective home.

38) Discharge of inmates of protective homes -

1. The State Government may at any time order an inmate of a protective home to be discharged either absolutely or on such conditions as they approve. In the event of a breach of any such conditions the inmate shall be liable to be arrested and brought back to the Home.

2. The Superintendent shall at the end of each month prepare a statement of inmates who have to be discharged in the subsequent month and read out the Statement to the inmates.
3. On the day of discharge, the inmate's state of health shall be recorded by the Superintendent in the inmate's Register. He/she shall compare the entries in the warrant of committal with those in the Register and shall satisfy himself/herself that they agree and the term of the inmate has been duly served. He/she shall then sign the endorsement for discharge on the warrant certifying to the due expire of the term. The belonging of the inmate shall be handed over to her and the details recorded in the appropriate column in the inmate's Register. The inmate shall be given food for the day before she is discharged. The inmate shall if necessary be provided with suitable clothing.
4. Every discharged inmate whose destination is on or near a line of railway shall be supplied with a railway ticket of the lowest class. Payment of the fare shall be made by boat, bus or steamer, the inmate shall be provided with passage or passage money to the halting place nearest to his/her destination at the lowest rate. Every inmate who has to proceed a distance of more than 5 miles by road or more than 3 hours' Journey by rail or other mode of conveyance shall on discharge be given subsistence allowance at the rate of 8 annas, if the journey will be completed on the following morning and one rupee per day otherwise.
5. The State Government may at any time order suitable inmates of the Protective Homes to be admitted into Homes established under the After-Care Programmes of the State Government.
6. A Disposal Register in Form X shall be kept in every Protective Home in which full particulars shall be entered of the manner in which every inmate is disposed of on discharge and of her after-care. Every effort shall be made by the Superintendent to keep in touch with the inmates for at least 3 years after their discharge.
7. An annual return in Form XI shall be made by the Superintendent to the Chief Inspector. The remarks made by the Board of Visitors from time to time during the year to which the return relates shall also be communicated to the Chief Inspector with the return.

39) Marriage of inmates of protective homes -

1. The Superintendent may, if possible, arrange for marriage of an inmate with a man of her own religion; provided that her previous consent in writing and that of her parent or guardian, if she has not attained the age of eighteen years, is obtained; and provided that no monetary consideration is accepted from the person to whom the inmate is married or from any person interested in him. In case there is no parent or guardian living, the consent of the nearest relations should be obtained. The wishes of the inmate shall in every case be considered.
2. No such marriage shall be performed without the permission of the District Magistrate.

40) Chief Inspector of protective home -

1. The State Government shall appoint a Chief Inspector for all the Protective Homes in the State.
2. Among other duties assigned to him by the State Government from time to time, the following duties shall appertain to the Chief Inspector;
 - a. he/she shall superintend and control the working of [Prevention of Immoral Traffic] (Orissa) Rules, 1959;
 - b. he/she shall have general control over the staff in all Protective Homes in the State;
 - c. he/she shall inspect all Protective Homes whether established or licensed by the State Government, at least once a year and submit his/her inspection report to the State Government.

41) Board of Visitors -

1. The State Government may appoint for any local area of Visitors to visit once in a month the Protective Homes situated within such local area and to comment and advise on matters affecting the administration of such Protective Homes.
2. The State Government may appoint to a Board of Visitors to work as its members such officials and non-officials as it may deem necessary, the total number being not less than three and not more than seven, one of whom shall be nominated as President. Non-official members may include experienced social welfare workers, particularly women social welfare workers, in, the field of suppression of immoral traffic in women and [child or minors].
3. A non-official member shall hold office for two years from the date of his/her appointment and shall be eligible for reappointments.
4. It shall be the duty of the Board -
 - a. to enquire into and see that the arrangements in the Protective Home are proper in all respects;
 - b. to examine the medical, admission and disposal registers and any other connected records;
 - c. to see that no inmate; is illegally detained in Home;
 - d. to bring any special cases to the notice of the Chief Inspector;
 - e. to interview new admissions since the last meeting and to hear any representations that the inmates may desire to make; and
 - f. to carry out any other duties which may be assigned to the Board from time to time by the State Government.
5. The Board shall hold formal meeting once in every three months. The meeting shall be held in the Protective Home or if there are two or more Protective Homes in any area, in each Home by rotation. The Superintendent of the Protective Home in which the meeting is held shall be the Secretary of the Board for the meeting.
6. No business shall be transacted at the meeting of a Board unless at least three members are present.
7. The President shall preside at every meeting of the Board at which he/she is present, if the President is absent from any meeting, the members present shall elect one of the members to preside over the meeting and the member so elected shall at that time exercise all the powers of the President.
8. The President of the Board shall fix the date and hour of the meeting and a week before the date so fixed, a notice thereof, together with an abstract of any special matters to be considered, shall be furnished to the members by the Secretary of the Board.
9. The minutes of each meeting shall be approved by the President and sent by the Superintendent of the Protective Home in which the meeting is held to the Chief Inspector with his/her remarks.
10. The Superintendent of each Home shall bring to the notice of the Chief Inspector all cases of failure on the part of any member to attend a meeting. The Chief Inspector shall keep a record of such cases of absence and shall, when any non-official member's attendance is markedly irregular, bring the notice of the State Government who may, if they think fit remove such member from office.

11. The Superintendent shall be advised by the resolutions of the Board in the management of the Home; provided that, if in the opinion of the Superintendent, it would be inconsistent with the Act or these rules, or in expedient to give effect to any such resolution, he/she shall submit the resolution for the orders of the Chief Inspector and intimate of the President of the Board the fact of his/her having done so. The order of the Chief Inspector shall be final. It will however be subject to review by the State Government who may confirm, rescinded or modify such order.

42) Visitor's Book -

The Superintendent shall cause a Visitor's Book to be maintained at the Protective Home. A copy of the remarks of a visitor recorded in Visitor's Book shall be submitted by the Superintendent to the Chief Inspector soon after the remarks are recorded by the visitor.

43) Annual returns -

The Superintendent shall submit to the Chief Inspector report on the administration of his/her Protective Home for the previous year, not later than the 15th May of each year in the form prescribed by the State Government. The Chief Inspector shall send annually to the State Government in the first week of July each year a report on the working of these rules together with his remarks, if any.

44) Forms-

In addition to the forms already prescribed and annexed hereto, the State Government may include in the body of the rules, the manner in which the accounts of a Protective Home shall be maintained and audited and the registers and statements required for the same and prescribe their forms. Similarly forms/of other registers required to be kept under the rules and any other registers may also be included.

45) Punishment for breach of rules -

Any person who commits a breach of Rule 7 or 34 of these rules, shall on conviction by a Magistrate, be punishable with fine which may extend to hundred and fifty rupees.

FORM-I

[See Rule 4]

Form of undertaking

In the Court of the Magistrate

I of do hereby declare that I am willing to take charge of aged under the orders of the Court, subject to the following terms and conditions:

- i. I shall do my best for the welfare of the [child or minor] as long as she remains in my charge and shall make proper provision for her maintenance;
- ii. If the [child or minor]'s conduct is unsatisfactory, I shall at once inform the Court;
- iii. In the event of the [child or minor]'s illness, she shall have proper medical attention in the nearest hospital;
- iv. The [child or minor] shall be free to follow the observance of her own religion;
- v. I undertake to produce her before the Court when so required.

Form -II

[See Rule 5]

Warrant of commitment to a Protective Home

In the Court of

To the Superintendent of the Protective Home at

Whereas particulars of whom are furnished below has been ordered by me to be detained in a protective home for a period of from to under [***/Sub-section (2) of Section 19 of Immoral Traffic (Prevention) Act, 1956 (104 of 1956);

This is to authorise and require you the said Superintendent to receive that said into your custody together with his warrant and there to detain her for the period referred to above in accordance with [Prevention of Immoral Traffic] (Orissa) Rules, 1959, and to return this warrant with an endorsement certifying the manner of its execution.

Particulars:

- (1) Name of the woman [child or minor]
- (2) Age
- (3) Religion
- (4) Marks of identification
- (5) Offence charged
- (6) Offence for which convicted
- (7) Sentence passed
- (8) Date of sentence
- (9) Period of detention

Given under my hand and seal of the Court this Day of 20

FORM -III

[See Rule 7(i)]

Form of application for licence

- (1) Full name of the applicant or association. (if registered, a copy of the registration certificate and particulars of all members of the association shall be given)
 - (2) Religion
 - (3) Residence (Town or village)
- Police-Station
- District

(Note - In case of association, particulars regarding items 2 and 3 be mentioned in respect of each member)

- (4) Name of the Institution
- 5) Aims and objects of the Institution
- (6) Details about the financial condition of the Institution; funds, property and sources of income
- (7) Arrangements made or proposed to be made for boarding and lodging. Also details of the building, whether owned by the Institution or rented.
- (8) Arrangements in respect of general health of inmates and facilities for their medical treatment and arrangements proposed to be made for the education and vocational and moral training designed to make them fit for rehabilitation in life as normal citizens.
- (9) Full address of the proposed Institutions including the name of the city or town and the locality.
- (10) If any such application has been made previously, please state its result together with its date, month and year
- (11) If the Institution exists at present, the date of its commencement, annual reports of its working if prepared or its working to date.
- (12) Number and particulars of inmates at the time of opening the Institution.
- (13) Maximum number of accommodation for children and women
- (14) Any other particulars.

I/We hereby solemnly affirm that the above and annexed particulars are true according to my/our best of knowledge and belief.

Signature(s) with date and place
and name in Block Letters

FORM-IV

[See Rule 7(2)]

Licence

Serial No of Licence	Name and full address of the Protective Home	Name and full description and residence of licence	Name in full of the Manager of Protective Home	Particulars of services to be rendered by the Institution	Restrictions as to number of inmates	Date of expiry of licence	Remarks
1	2	3	4	5	6	7	8

The day of 20 (Seal)

Licensing Authority

Conditions

- 1) This licence is granted subject to all the provisions of the Immoral Traffic (Prevention) Act, 1956 (No 104 of 1956) and the Prevention of Immoral Traffic (Orissa) Rules, 1959.
- 2) The licensee shall, affix on a conspicuous part of the Protective Home a sign board on which shall be painted in large letters in English and Hindi the name of the Protective Home.
- 3) The licence shall not be transferable.
- 4) The licence shall remain in force for a period of one year from the date of issue.

FORM-V

[See Rule 7 (3)]

Form of application for renewal of licence

- 1) Full name of the applicant or Association (if registered, a copy of the registration certificate and particulars of all members of the Association should be given)
- 2) Religion
- 3) Residence (Town or village)
Police-Station
District
- 4) Name of the Institution
- 5) Licence No and year
- 6) Any other particulars

Signature(s) with date and
place and names in Block Letters

FORM-VI

[See Rule 8(i)]

Inmate's Register

(Name of the Protective Home)

- 1) Name of the inmate
- 2) Father's name or husband's name (in the case of a married woman or [child or minor])
- 3) Age
- 4) Caste or religion, previous occupation, if any
- 5) Previous place of settled residence; if any (town or village), taluk and district
- 6) Height
- 7) Weight on admission
- 8) Marks of identification
- 9) General health
- 10) Ability to do any skilled work
- 11) Calendar No of the case, and sentencing authority
- 12) Period and date of order of committal
- 13) Date of admission
- 14) Date of expiry of period of detention or transfer to another home
- 15) Labour on which employed
- 16) Particulars and value of property delivered with or found on the inmate on admission, or subsequently received on her account with signature or left thumb-print in acknowledgement of correctness on each occasion and on disposal.
- 17) Initials of Superintendent (with dates) in token of having received the property into his/her charge.
- 18) Remarks showing how the inmate has been disposed of after expiry of the period of detention or transfer. Initials of the Superintendent in token of the accuracy of the entries.
- 19) State of health and weight on the date of discharge.

Note - Particulars about health should be entered by the Medical Officer.

FORM - X

[See Rule 38(6)]

Disposal Register

(Name of the Protective Home)

- 1) Serial No
 - 2) Name of ¹[child or minor] or woman
 - 3) Age
 - 4) Caste, religion and language
 - 5) Conduct
 - 6) Attainment
 - 7) Health
 - 8) Medical treatment
 - 9) Date of leaving
 - 10) Duration of stay
 - 11) Remarks
 - 12) Signature of superintendent
1. Substituted vide Orissa Gazette Part - IIIA No 3 date 20/01/1995

FORM - XI

[See Rule 38(7)]

Number of persons discharged during the year

District	Taluk	Town or village
----------	-------	-----------------

- 1) Name of the Protective Home
- 2) Number of [child or minor]s, women discharged during the year

Station :

Date

Superintendent of Protective Home

5. Incedent Representation of Women

5.1 The Indecent Representation of Women (Prohibition) Act, 1986

5.2 The Indecent Representation of Women (Prohibition) Rules, 1987

THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986

[NO. 60 OF 1986]

An Act to prohibit indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Thirty-seven Year of the Republic of India as follows:-

1. Short title, extent and commencement -

- (1) This Act may be called the Indecent Representation of Women (Prohibition) Act, 1986.
- (2) It extends to the whole of India, except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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

“advertisement” includes any notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas;

“distribution” includes distribution by way of samples whether free or otherwise;

“indecent representation of women” means the depiction in any manner of the figure of a woman; her form or body or any part thereof in such way as to have the effect of being indecent, or derogatory to, or denigrating women, or is likely to deprave, corrupt or injure the public morality or morals;

“label” means any written, marked, stamped, printed or graphic matter, affixed to, or appearing upon, any package;

“package” includes a box, a carton, tin or other container;

“prescribed” means prescribed by rules made under this Act.

3. Prohibition of advertisements containing indecent representation of Women - No person shall publish, or cause to be published, or arrange or take part in the publication or exhibition of, any advertisement which contains indecent representation of women in any form.

4. Prohibition of publication or sending by post of books, pamphlets, etc; containing indecent representation of women - No person shall produce or cause to be produced, sell, let to hire, distribute, circulate or send by post any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure which contains indecent representation of women in any form:

Provided that nothing in this section shall apply to -

a) any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure -

(i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, slide, film, writing, drawing, painting, photography, representation or figure is in the interest of science, literature, art, or learning, or other objects of general concern; or

(ii) which is kept or used bonafide for religious purpose;

any representation sculptured, engraved, painted or otherwise represented on or in-

(i) any ancient monument within the meaning of the Ancient Monument and Archaeological Sites and Remains Act, 1958 (24 of 1958); or

(ii) any temple, or on any car used or the conveyance of idols, or kept or used for any religious purpose;

any film in respect of which the provisions of Part II of the Cinematograph Act, 1952 (37 of 1952), will be applicable.

5. Powers to enter and search -

(1) Subject to such rules as may be prescribed, any Gazetted Officer authorized by the State Government may, within the local limits of the area for which he is so authorized:-

enter and search at all reasonable times, with such assistance, if any, as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed;

seize any advertisement or any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure which he has reason to believe contravenes any of the provisions of this Act;

examine any record, register, document or any other material object found in any place mentioned in Cl.(a) and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

Provided that no entry under this sub-section shall be made into a private dwelling-house without a warrant:

Provided further that the power of seizure under this sub-section may be exercised in respect of any document, article or thing which contains any such advertisement, including the contents, if any, of such document, article or thing if the advertisement cannot be separated by reason of its being embossed or otherwise from such document, article or thing without affecting the integrity,

utility or saleable value thereof.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to any search or seizure made under the authority of a warrant issued under Sec.94 of the said Code.

(3) where any person seizes anything under Cl.(b) or Cl.(c) of sub section (1), he shall, as soon as may be, inform the nearest Magistrate and take his orders as to the custody thereof.

6. Penalty - Any person who contravenes the provisions of Sec 3 or Sec 4 shall be punishable on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and in the event of a second or subsequent conviction with imprisonment for term of not less than six months but which may extend to five years and also with a fine not less than ten thousand rupees but which may extend to one lakh rupees.

7. Offences by companies -

(1) Where an offence under this Act has been committed by 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 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:

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

(2) Notwithstanding anything contained in sub-section (1), where any 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 be proceeded against and punished accordingly.

Explanation - For the purpose of this section -

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

“director”, in relation to a firm, means a partner in the firm.

8. Offences to be cognizable and bailable -

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under this Act shall be bailable.

(2) An offence punishable under this Act shall be cognizable.

9. **Protection of action taken in good faith** - No suit, prosecution or other legal proceeding shall lie against the Central Government or any State Government or any officer of the Central Government or any State Government for anything which is in good faith done or intended to be done under this Act.

10. **Power to make rules** -

- (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 manner in which the seizure of advertisement or other articles shall be made, and the manner in which the seizure list shall be prepared and delivered to the person from whose custody any advertisement or other article has been seized; any other matter which is required 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 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, 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.

Indecent Representation of Women (Prohibition) Rules, 1987

G.S.R.822 (E), dated 25th September, 1987 - In exercise of the powers conferred by Sec.10 of the Indecent representation of Women (Prohibition) Act, 1986 (60 of 1986), the Central Government hereby makes the following rules, namely:

1. **Short title and commencement** -

- (1) These rules may be called the Indecent Representation of Women (Prohibition) Rules, 1987.
- (2) They shall come into force on the 2nd October, 1987.

2. **Definitions** -

- (1) In these rules, unless the context otherwise requires,-
 - (a) 'Act' means the Indecent Representation of women (Prohibition) Act, 1986 (60 of 1986);
 - (b) 'article' means any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation of figure;

(c) 'authorized officer' means any Gazetted Officer authorized by the State Government for the purpose of section 5 of the Act.

(d) 'section' means a section of the Act.

(2) Words and expressions used in these rules and not defined, shall have the meanings respectively, assigned to them in the Act.

3. Manner of seizure of articles -

(1) Every seizure made in pursuance of the provisions of sub-section (1) of section 5 shall be made in the manner hereinafter provided in these rules.

(2) The authorized officer seizing any advertisements or articles under sub-section (1) of section 5 shall prepare a list of such advertisements or articles containing such details relating to the description, quality, quantity, mark, number and other particulars thereof as he may consider relevant to the identity of such advertisements or articles in any proceeding under the Act, in the Form annexed to these rules.

(3) The authorized officer shall pack and seal such advertisements or articles in the manner provided in rule 4 and shall deliver a copy of the list so prepared to the person from whom such advertisements or articles are seized.

(4) The advertisements or articles so seized shall be marked with a distinguishing number and shall also be signed by the authorized officer, the person from whom such advertisements or articles have been seized and two respectable inhabitants of the locality. If it is not possible to mark any such advertisement or article, the marking may be done on the packaging or in any other manner which the authorised officer thinks proper.

4. Manner of packing and dealing with advertisements or articles seized -

(1) The advertisements or articles seized shall be packed in adequately strong paper, cloth or in any other packing material in such a way that the advertisements or articles may not be tampered with and the ends of the paper, cloth or other packing material shall be neatly folded and affixed by means of gum or other adhesive or stitched in or tied.

(2) The package shall be further secured by means of strong twine or thread and the twine or thread shall be fastened on the package by means of sealing wax on which there shall be at least four distinct and clear impressions of the seal of the authorised officer of which one shall be on the top of the package, one at the bottom and the other two at the body of the package and knots of the twine or thread shall be covered by means of sealing wax bearing the impression of the seal of the authorized officer.

(3) Where necessary, the authorized officer shall put the advertisements or articles in a box, a container of a suitable material and size and seal it in the manner provided in sub-rule(2).

5. **Manner of seizing and sealing advertisements or articles in certain cases** - Notwithstanding anything contained in rules 3 and 4, where the authorized officer is of the opinion that it is not possible to seize and seal any advertisement or article in the manner prescribed in rules 3 and 4 due to the size or the nature of such advertisement or article, he may take such steps as he thinks fit for the seizure and sealing of such advertisement or article without affecting the integrity, utility or saleable value thereof.

THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) RULES, 1987

FORM

[See rule 3(2)]

List of Advertisements or Articles Seized

To

(Name and address of the person from whom the advertisement(s) or article(s) are seized)

.....
.....

The advertisement(s), article(s) detailed below has/have this day been seized by me under sub-section (1) of section 5 of the Indecent Representation of women (Prohibition) Act, 1986 (60 of 1986), from the premises situated at

Details of advertisement(s), article(s) seized:

Place

(Authorised Officer)

(Seal) Area

6. Child Marriage Prevention

6.1 The Prohibition of Child Marriage Act, 2006

6.2 The Orissa Prohibition of Child Marriage Rules, 2009



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II - खण्ड 1
PART II - Section 1
प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं 6] नई दिल्ली, बृहस्पतिवार, जनवरी 11, 2007 / पौष 21, 1928
No.6] NEW DELHI, THURSDAY, JANUARY 11, 2007 / PAUSA 21, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 11th January 2007/Pausa 21, 1928 (Saka)

The following Act of Parliament received the assent of the President on the 10th January, 2007, and is hereby published for general information:-

THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

No. 6 of 2007

[10th January, 2007]

An Act to provide for the prohibition of solemnisation of child marriages and for matters connected herewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows :-

1. (1) This Act may be called the Prohibition of Child Marriage Act, 2006.
- (2) It extends to the whole of India except the State of Jammu and Kashmir; and it applies also to all citizens of India without and

Short title,
extent and
commencement.

beyond India:

Provided that nothing contained in this Act shall apply to the Reoncants of the Union territory of Pondichery.

- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in any provision to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

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

- (a) "child," means a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age;
- (b) "child marriage" means a marriage to which either of the contracting parties is a child;
- (c) "contracting party", in relation to a marriage, means either of the parties whose marriage is or is about to be thereby solemnised;
- (d) "Child Marriage Prohibition Officer" includes the Child Marriage Prohibition Officer appointed under sub-section (1) of section 16;
- (e) "district court" means, in any area for which a Family Court established under section 3 of the Family Courts Act, 1984 exists, such Family Court, and in any area for which there is no family court but a city civil court exists, that court and in any other area the principal civil court of original jurisdiction and includes any other civil court which may be specified by the State Government, by notification in the Official Gazette, as having jurisdiction in respect of the matters dealt with in his Act; 66 of 1984
- (f) "minor" means a person who under the provisions of the Majority Act. 1875 is to be deemed not to have attained his majority. 9 of 1875

Child marriages to be voidable at the option of contracting party being a child.

3. (1) Every child marriage, whether solemnised before or after the commencement of this Act, shall be voidable at the option of the contracting party who was a child at the time of the marriage:
- Provided that a petition for annulling a child marriage by a degree of nullity may be filed in the district court only by a contracting party to the marriage who was a child at the time of the marriage.
- (2) If at the time of filing a petition, the petitioner is a minor, the petition may be filed through his or her guardian or next friend along with the Child Marriage Prohibition Officer.
- (3) The petition under this section may be filed at any time but before the child filing the petition completes two years of attaining majority.
- (4) While granting a decree of nullity under this section, the district court shall make an order directing both the parties to the marriage and their parents or their guardians to return to the other party, his or her parents or guardian, as the case may be the money,

valuables, ornaments and other gifts received on the occasion of the marriage by them from the other side, or an amount equal to the value of such valuables, ornaments other gifts and money;

Provided that no order under this section shall be passed unless the concerned parties have been given notices to appear before the district court and show cause why such order should not be passed.

Provision for maintenance and residence to female contracting party to child marriage

4. (1) While granting a decree under section 3, the district court may also make an interim or final order directing the male contracting party to the child marriage and in case the male contracting party to such marriage is a minor, his parent or guardian to pay maintenance to the female contracting party to the marriage until her remarriage.
- (2) The quantum of maintenance payable shall be determined by the district court having regard to the needs of the child, the lifestyle enjoyed by such child during her marriage and the means of income of the paying party.
- (3) The amount of maintenance may be directed to be paid monthly or in lump sum.
- (4) In case the party making the petition under section 3 is the female contracting party, the district court may also make a suitable order as to her residence until her remarriage.

Custody and maintenance of children of child marriages.

5. (1) Where there are children born of the child marriage, the district court shall make an appropriate order for the custody of such children.
- (2) While making an order for the custody of a child under this section, the welfare and best interests of the child shall be the paramount consideration to be given by the district court.
- (3) An order for custody of a child may also include appropriate directions for giving to the other party access to the child in such a manner as may best serve the interests of the child, and such other orders as the district court may, in the interest of the child, deem proper.
- (4) The district court may also make an appropriate order for providing maintenance to the child by a party to the marriage or their parents or guardians.

6. Notwithstanding that a child marriage has been annulled by a decree of nullity under section 3, every child begotten or conceived of such marriage before the decree is made, whether born before or after the commencement of this Act, shall be deemed to be a legitimate child for all purposes.
7. The district court shall have the power to add to, modify or revoke any order made under section 4 or section 5 and if there is any change in the circumstances at any time during the pendency of the petition and even after the final disposal of the petition.

Legitimacy of children born of child marriage.

Power of district court to modify orders issued under section 4 or section 5

8. For the purpose of grant of reliefs under sections 3, 4 and 5, the district court having jurisdiction shall include the district court having jurisdiction over the place where the defendant or the child resides, or where the marriage was solemnised or where the parties last resided together or the petitioner is residing on the date of presentation of the petition. Court to which petition should be made.
9. Whoever, being a male adult above eighteen years of age, contracts a child marriage shall be punishable with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees or with both. Punishment for male adult marrying a child.
10. Whoever performs, conducts, directs or abets any child marriage shall be punishable with rigorous imprisonment which may extend to two years and shall be liable to fine which may extend to one lakh rupees unless he proves that he had reasons to believe that the marriage was not a child marriage. Punishment for solemnising a child marriage.
11. (1) Where a child contracts a child marriage, any person having charge of the child, whether as parent or guardian or any other person or in any other capacity, lawful or unlawful, including any member of an organisation or association of persons who does any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised, including attending or participating in a child marriage, shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine which may extend up to one lakh rupees: Punishment for promoting or permitting solemnisation of child marriages.
- Provided that no woman shall be punishable with imprisonment.
- (2) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor child has contracted a marriage, the person having charge of such minor child has negligently failed to prevent the marriage from being solemnised.
12. Where a child, being a minor - Marriage of a minor child to be void in certain circumstances.
- (a) is taken or enticed out of the keeping of the lawful guardian; or
- (b) by force compelled, or by any deceitful means induced to go from any place; or
- (c) is sold for the purpose of marriage; and made to go through a form of arriage or if the minor is married after which the minor is sold or trafficked or used for immoral purposes,
- such marriage shall be null and void.
13. (1) Notwithstanding anything to the contrary contained in this Act. if, on an application of the Child Marriage Prohibition Officer or on receipt of information through a complaint or otherwise from any person, a Judicial Magistrate of the first class or a Metropolitan Magistrate is satisfied that a child marriage in contravention of this Act has been arranged or is about to be solemnised, such Magistrate shall issue an injunction against any person including a member of an organisation or association of persons prohibiting such marriage.

Power of court to issue injunction prohibiting child marriages.

- (2) A complaint under sub-section (1) may be made by any person having personal knowledge or reason to believe, and a non-governmental organisation having reasonable information, relating to the likelihood of taking place of solemnisation of a child marriage or child marriages.
- (3) The Court of the Judicial Magistrate of the first class or the Metropolitan Magistrate may also take *suo motu* cognizance on the basis of any reliable report or information.
- (4) For the purposes of preventing solemnisation of mass child marriages on certain days such as *Akshaya Trutiya*, the District Magistrate shall be deemed to be the Child Marriage Prohibition Officer with all powers as are conferred on a Child Marriage Prohibition Officer by or under this Act.
- (5) The District Magistrate shall also have additional powers to stop or prevent solemnisation of child marriages and for this purpose, he may take all appropriate measures and use the minimum force required.
- (6) No injunction under sub-section (1) shall be issued against any person or member of any organisation or association of persons unless the Court has previously given notice to such person, members of the organisation or association of persons, as the case may be, and has offered him or them an opportunity to show cause against the issue of the injunction:

Provided that in the case of any urgency, the Court shall have the power to issue an interim injunction without giving any notice under this section.
- (7) An injunction issued under sub-section (1) may be confirmed or vacated after giving notice and hearing the party against whom the injunction was issued.
- (8) The Court may either on its own motion or on the application of any person aggrieved, rescind or alter an injunction issued under sub-section (1).
- (9) Where an application is received under sub-section (1), the Court shall afford the applicant an early opportunity of appearing before it either in person or by an advocate and if the Court, after hearing the applicant rejects the application wholly or in part, it shall record in writing its reasons for so doing.
- (10) Whoever knowing that an injunction has been issued under sub-section (1) against him disobeys such injunction shall be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one lakh rupees or with both:

Provided that no woman shall be punishable with imprisonment.

Child marriages in contravention of injunction orders to be void.

14. Any child marriage solemnised in contravention of an injunction order issued under section 13, whether interim or final, shall be void *ah initio*.

Offences to be
cognizable and
non-bailable

15. Notwithstanding anything contained in the Code of criminal Procedure, 1973, an offence punishable under this Act shall be cognizable and non-bailable. 2 of 1974

16. (1) The State Government shall, by notification in the Official Gazette, appoint for the whole State, or such part thereof as may be specified in that notification, an officer or officers to be known as the Child Marriage Prohibition Officer having jurisdiction over the area or areas specified in the notification. Child Marriage Prohibition Officers

(2) The State Government may also request a respectable member of the locality with a record of social service or an officer of the Gram Panchayat or Municipality or an officer of the Government or any public sector undertaking or an office bearer of any non-governmental organisation to assist the Child Marriage Prohibition Officer and such member, officer or office bearer, as the case may be, shall be bound to act accordingly.

(3) It shall be the duty of the Child Marriage Prohibition Officer -

(a) to prevent solemnisation of child marriages by taking such action as he may deem fit;

(b) to collect evidence for the effective prosecution of persons contravening the provisions of this Act;

(c) to advise either individual cases or counsel the residents of the locality generally not to indulge in promoting, helping, aiding or allowing the solemnisation of child marriages;

(d) to create awareness of the evil which results from child marriages:

(e) to sensitize the community on the issue of child marriages;

(f) to furnish such periodical returns and statistics as the State Government may direct; and

(g) to discharge such other functions and duties as may be assigned to him by the State Government.

(4) The State Government may by notification in the Official Gazette subject to such conditions and limitations, invest the Child Marriage Prohibition Officer with such powers of a police officer as may be specified in the notification and the Child Marriage Prohibition Officer shall exercise such powers subject to such conditions and limitations, as may be specified in the notification.

(5) The Child Marriage Prohibition Officer shall have the power to move the Court for an order under sections 4, 5 and 13 and along with the child under section 3.

40 of 1860

17. The Child Marriage Prohibition Officers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Child Marriage Prohibition Officers to be public servants

18. No suit, prosecution or other legal proceedings shall lie against the Child Marriage Prohibition Officer in respect of anything in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder. Protection of action taken in good faith.

19. (1) The State Government may by notification in the Official Gazette, make rules for carrying out the provisions of this Act. Power of State Government to make rules
- (2) Every rule made under this Act shall as soon as may be after it is made, be laid before the State Legislature.
20. In the Hindu Marriage Act, 1955, in section 18. for clause (a), the following clause shall be substituted, namely:- Amendment of Act No.25 of 1955
- “(a) in the case of contravention of the condition specified in clause (in) of section 5, with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees, or with both”
- Repeal and savings 21. (1) The Child Marriage Restraint Act, 1929 is hereby repealed. 19 of 1929
- (2) Notwithstanding such repeal, all cases and other proceedings pending or continued under the said Act at the commencement of this Act shall be continued and disposed of in accordance with the provisions of the repealed Act, as if this Act had not been passed.

K.N. CHATURVEDI,
Secy. to the Govt. of India.



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II - खण्ड 3 - उप-खण्ड (ii)
PART II - Section 3 - Sub-section (ii)
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं 1330] नई दिल्ली, मंगलवार, अक्टूबर 30, 2007 / कार्तिक 8, 1929
No.1330] NEW DELHI, TUESDAY, OCTOBER 30, 2007 / KARTIKA 8, 1929

महिला एवं बाल विकास मंत्रालय
अधिसूचना

नई दिल्ली, 30 अक्टूबर, 2007

का.आ. 1850 (अ). - बाल विवाह निषेध अधिनियम, 2006 (2007 का 6) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार इसके द्वारा 1 नवम्बर, 2007 के दिन को ऐसी तारीख नियम करती है, जिससे उक्त अधिनियम प्रवृत्त होगा।

[फा.सं. 10-5/2007-सीएम]
पी. बोलीना, संयुक्त सचिव

MINISTRY OF WOMEN AND CHILD
DEVELOPMENT
NOTIFICATION

New Delhi, the 30th October, 2007

S.O. 1850 (E) - In exercise of the powers conferred by Sub-section (3) of Section 1 of the Prohibition of Child Marriage Act, 2006 (6 of 2007), the Central Government hereby appoints the 1st day of November, 2007, as the date on which the said Act shall come into force.

[F. No. 10-5/2007-CM]
P. BOLINA, Jt. Secy.

The Orissa Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 1402 CUTTACK, TUESDAY, SEPTEMBER 22, 2009/BHADRA 31, 1931

WOMEN & CHILD DEVELOPMENT DEPARTMENT

NOTIFICATION

The 19th September 2009

S.R.O. No. 392/2009 - In exercise of the powers conferred under Section 19 of the Prohibition of Child Marriage Act, 2006, (Act No.6 of 2007), the State Government do hereby make the following rules, namely :-

1. Short title and commencement -
 - (1) These rules may be called the Orissa Prohibition of Child Marriage Rules, 2009.
 - (2) They shall come into force on the date of their publication in the *Orissa Gazette*.
2. Definitions - (1) In these rules unless the context otherwise requires -
 - (a) "Act" means the Prohibition of Child Marriage Act, 2006 (Act 6 of 2007);
 - (b) "Form" means Form appended to these rules;
 - (c) "Police Officer" means an officer in the State Police;
 - (d) "Section" means a Section of the Act;
 - (e) "State Government" means the Government of Orissa.

(2) The words and expressions used in these rule but not defined shall have the meanings respectively assigned to them in the Act.
3. Duties and functions of Child Marriage Prohibition Officer in addition to the duties and functions assigned to a Child Marriage Prohibition Officer under Clauses (a) to (g) of sub-section (3) of Section 16 of the Act, it shall be the duty of every Child Marriage Prohibition Officer -
 - (a) to act immediately upon any information of the solemnization of any child marriage that may be received through any mode of communication including writing or oral i.e. through a letter, telephone, telegram, e-mail, etc. or by any other means to initiate all necessary action;
 - (b) to furnish quarterly return and statistics to the Chief Child Marriage Prohibition Officer in Form I;
 - (c) to file petition for annulling a child marriage in the district court, if the petition is a minor.
 - (d) to file petition before the district court to pay maintenance to the female contracting party of the marriage until her re-marriage; and
 - (e) to file petition to the district court for the custody and maintenance of children of the child marriage.
4. Method of appointment, duties and functions of Chief Child Marriage Prohibition Officer -
 - (1) The State Government shall, by notification in the official Gazette, designate a senior officer of the Women and Child Development Department as the Chief Child Marriage Prohibition Officer to administer and co-ordinate the work relating to Child Marriage Prohibition throughout the State.

- (2) The Chief Child Marriage Prohibition Officer shall co-ordinate the work of Child Marriage Prohibition Officers and shall be responsible for the proper performance of the Child Marriage Prohibition work in the State.
- (3) The Chief Child Marriage Prohibition Officer shall be responsible for the preparation and submission of an Annual Report on the progress of implementation of the Act and related matters and such statistics as may be required from time to time by the State Government.
- (4) In addition to the general duties of monitoring and supervision of the implementation of the provisions of the Act it shall be the duty of the Chief Child Marriage Prohibition Officer -
 - (a) to exercise general control, superintendence and direction over all the Child Marriage Prohibition Officers so far as the implementation of the Act and rules are concerned;
 - (b) to review periodically the functioning of Child Marriage Prohibition Officers across the State;
 - (c) to cause an annual status report on Child Marriage to be submitted to the State Government;
 - (d) to formulate schemes and programmes for creating awareness sensitizing the community and organize training to functionaries of the concerned departments;
 - (e) to discharge such other functions and duties as may be assigned to him by the State Government;
 - (f) to convene an annual review and strategy conference on prevention of child marriage; and
 - (g) to cause publication and circulation of the Act and rules in Oriya and English.
5. Nodal Officer -
 - (1) The District Collector shall be the Nodal Officer at the district Level for the purpose of implementation of the Act.
 - (2) The District Collector shall periodically review the implementation of the Act within the respective district and take all necessary measures for the proper and effective implementation of the Act.
6. Procedure for conducting enquiry -
 - (1) A complaint/information to the Child Marriage Prohibition Officer may be filed/given by any person in any form, written, phone, e-mail, etc;
 - (2) On receipt of a complaint/information under sub-rule (1) of this rule, the Child Marriage Prohibition Officer shall record it in Form II and conduct a brief enquiry;
 - (3) For the conduct of enquiry under sub-rule (2) of this rule, he shall have the powers of a Police Officer under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), for the purpose of investigation, summoning of parties and witnesses, recording of statement, etc, for discharging his duties under the Act;
 - (4) Officers in charge of Police Station shall provide all such assistance to the Child Marriage Prohibition Officer in order to carry out his duties under the Act and rules; and
 - (5) Every Child Marriage Prohibition Officer shall submit his report in Form III to the concerned Judicial Magistrate of the First Class or the Chief Judicial Magistrate with his enquiry report.
7. Production of Document - It is the duty of the accused party to furnish the relevant document to the satisfaction of the court to prove that the none of the parties in the marriage is a child as defined in Clause (a) of Section 2 of the Act.

[No. 16217-G.O.(P)]

By order of the Governor
SUBHASHREE NANDA

Under-Secretary to Government

FORM I
[See Rule 3 (2) (b)]

For the Quarter starting from to

Name of District

Name and address of the Child Marriage Prohibition Officer (with Phone No.) :

1. Total No. of complaints received:
2. Total No. of enquiry conducted:
3. Total No. of reports submitted to Courts:
4. Total No. of Injunction order received:
5. Total No. of violations made by parties:
6. Total No. of maintenance orders issued:
7. Total No. of punishment orders made :
8. Total No. of child marriage successfully prevented:
9. Total No. of residence orders made under Section 4 :
10. Total No. of awareness programmes conducted:
11. Total No. of review meetings of assistance conducted:
12. Any other information:

(Seal)

Signature of the
 Child Marriage Prohibition Officer
 (with date)

FORM II

[See Rule 6 (2)]

CHILD MARRIAGE INFORMATION REPORT

1. Name and address of the Complainant (with Phone No.) :
2. Name and address of the : (1)
accused (with phone No.) (2)
3. Particulars of the report -
 - (a) Age and date of birth :
 - (b) Address :
 - (c) Present residence :
 - (d) Occupation :
 - (e) Education :
 - (f) Name and address of parents :
 - (g) Name and address of employer, if any :
 - (h) Any other relevant information :
4. Short Summary on the circumstances of the Child Marriage:
5. Any other information:

(Seal)

Signature of the
Child Marriage Prohibition Officer
(with date)

FORM III

[See Rule 6(5)]

REPORT OF CHILD MARRIAGE PROHIBITION OFFICER

Summary of First Information

Relief required*

1. Under Section 3 of the Act
2. Under Section 4 of the Act
3. Under Section 5 of the Act
4. Under Section 13 of the Act

(Seal)

Signature of the
Child Marriage Prohibition Officer
(with date)

List of enclosures:

1. Age certificate if any:
2. Copy of complaint if any:
3.

* [Add separate sheet if required]

7. Pre-Conception & Pre-Natal Diagnostic Technique

7.1 The Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994

7.2 The Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 - Rules

7.3 The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2012

**THE PRE-NATAL DIAGNOSTIC TECHNIQUES
(REGULATION AND PREVENTION OF MISUSE) ACT, 1994
(ACT NO. 57 OF 1994)**

AND

**THE PRE-NATAL DIAGNOSTIC TECHNIQUES
(REGULATION AND PREVENTION OF MISUSE) AMENDMENT ACT, 2002
(No. 14 of 2003)**

[20th September, 1994]

An Act to provide for the prohibition of sex selection, before or after conception, and for regulation of pre-natal diagnostic techniques for the purpose of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of their misuse for sex determination leading to female foeticide; and, for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows :-

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement -

- (1) This Act may be called the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.
- (2) It shall extend to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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

- a) "Appropriate Authority" means the Appropriate Authority appointed under section 17;
- b) "Board" means the Central Supervisory Board constituted under section 7;
- ba) "conceptus" means any product of conception at any stage of development from fertilization until birth including extra embryonic membrane as well as the embryo or foetus;
- bb) "embryo" means a developing human organism after fertilization till the end of eight weeks (fifty-six days);
- bc) "foetus" means a human organism during the period of its development beginning on the fifty-seventh day following fertilization or creation (excluding any time in which its development has been suspended) and ending at the birth;
- c) "Genetic Counseling Centre" means an institute, hospital, nursing home or any place, by whatever name called, which provides for genetic counseling to patients;
- d) "Genetic clinic" means a clinic, institute, hospital, nursing home or any place, by whatever name called, which is used for conducting pre-natal diagnostic procedures.

Explanation - For the purposes of this clause, 'Genetic Clinic' includes a vehicle, where ultrasound machine or imaging machine or scanner or other equipment capable of determining sex of the foetus or a portable equipment which has the potential for detection of sex during pregnancy or selection of sex before conception, is used.

- e) "Genetic Laboratory" means a laboratory and includes a place where facilities are provided for conducting analysis or tests of samples received from Genetic Clinic for pre-natal diagnostic test.

Explanation – For the purposes of this clause, 'Genetic Laboratory' includes a place where ultra-sound machine or imaging machine or scanner or other equipment capable of determining sex of the foetus or a portable equipment which has the potential for detection of sex during pregnancy or selection of sex before conception, is used.

- f) "Gynaecologist" means a person who possesses a post-graduate qualification in gynecology and obstetrics;
- g) "Medical geneticist" includes a person who possesses a degree or diploma in genetic science in the fields of sex selection and pre-natal diagnostic techniques or has experience of not less than two years in such field after obtaining –
- i) any one of the medical qualifications recognized under the Indian Medical Council Act 1956 (102 of 1956); or
 - ii) a post-graduate degree in biological sciences;
- h) "Pediatrician" means a person who possesses a post-graduate qualification in pediatrics;
- i) "pre-natal diagnostic procedures" means all gynaecological or obstetrical or medical procedures such as ultrasonography, foetoscopy, taking or removing samples of amniotic fluid, chorionic villi, blood or any other tissue or fluid of a man, or of a woman for being sent to a Genetic Laboratory or Genetic Clinic for conducting any type of analysis or pre-natal diagnostic tests for selection of sex before or after conception;
- j) "pre-natal diagnostic techniques" includes all pre-natal diagnostic procedures and pre-natal diagnostic tests;
- k) "pre-natal diagnostic test" means ultrasonography or any test or analysis of amniotic fluid, chorionic villi, blood or any tissue or fluid of a pregnant woman or conceptus conducted to detect genetic or metabolic disorders or chromosomal abnormalities or congenital anomalies or haemoglobinopathies or sex-linked diseases;
- l) "prescribed" means prescribed by rules made under this Act;
- m) "registered medical practitioner" means a medical practitioner who possesses any recognized medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956, (102 of 1956) and whose name has been entered in a State Medical Register;
- n) "regulations" means regulations framed by the Board under this Act;
- o) "sex selection" includes any procedure, technique, test or administration or prescription or provision of anything for the purpose of ensuring or increasing the probability that an embryo will be of a particular sex;
- p) "sonologist or imaging specialist" means a person who possesses any one of the medical qualifications recognized under the Indian Medical Council Act, 1956 or who possesses a post-graduate qualification in ultrasonography or imaging techniques or radiology;
- q) "State Board" means a State Supervisory Board or a Union territory Supervisory Board constituted under Section 16A;
- r) "State Government" in relation to Union territory with Legislature means the Administrator of that Union territory appointed by the President under article 239 of Constitution.

CHAPTER II

REGULATION OF GENETIC COUNSELLING CENTRES, GENETIC LABORATORIES AND GENETIC CLINICS

3. *Regulation of Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics* - On and from the commencement of this Act -
1. No Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic unless registered under this Act, shall conduct or associate with, or help in, conducting activities relating to pre-natal diagnostic techniques;
 2. No Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall employ or cause to be employed or take services of any person, whether on honorary basis or on payment who does not possess qualifications as may be prescribed;
 3. No medical geneticist, gynaecologist, paediatrician, registered medical practitioner or any other person shall conduct or cause to be conducted or aid in conducting by himself or through any other person, any pre-natal diagnostic techniques at a place other than a place registered under this Act.
- 3A. *Prohibition of sex-selection* - No person including a specialist or a team of specialists in the field of infertility, shall conduct or cause to be conducted or aid in conducting by himself or by any other person, sex selection on a woman or a man or on both or on any tissue, embryo, conceptus, fluid or gametes derived from either or both of them.
- 3B. *Prohibition on sale of ultrasound machines, etc., to persons, laboratories, clinics, etc. not registered under the Act* - No person shall sell any ultrasound machine or imaging machine or scanner or any other equipment capable of detecting sex of foetus to any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or any other person not registered under the Act.

CHAPTER III

REGULATION OF PRE-NATAL DIAGNOSTIC TECHNIQUES

4. *Regulation of pre-natal diagnostic techniques* - On and from the commencement of this Act,-
1. no place including a registered Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall be used or caused to be used by any person for conducting pre-natal diagnostic techniques except for the purposes specified in clause (2) and after satisfying any of the conditions specified in clause (3);
 2. no pre-natal diagnostic techniques shall be conducted except for the purposes of detection of any of the following abnormalities, namely :-
 - i) chromosomal abnormalities;
 - ii) genetic metabolic diseases;
 - iii) haemoglobinopathies;
 - iv) sex-linked genetic diseases;
 - v) congenital anomalies;
 - vi) any other abnormalities or diseases as may be specified by the Central Supervisory Board;
 3. no pre-natal diagnostic techniques shall be used or conducted unless the person qualified to do so is satisfied for reasons to be recorded in writing that any of the following conditions are fulfilled, namely :-

- i) age of the pregnant woman is above thirty-five years;
- ii) the pregnant woman has undergone of two or more spontaneous abortions or foetal loss;
- iii) the pregnant woman had been exposed to potentially teratogenic agents such as drugs, radiation, infection or chemicals;
- iv) the pregnant woman or her spouse has a family history of mental retardation or physical deformities such as, spasticity or any other genetic disease;
- v) any other condition as may be specified by the Central Supervisory Board;

Provided that the person conducting ultrasonography on a pregnant woman shall keep complete record thereof in the clinic in such manner, as may be prescribed, and any deficiency or inaccuracy found therein shall amount to contravention of provisions of section 5 or section 6 unless contrary is proved by the person conducting such ultrasonography;

4. no person including a relative or husband of the pregnant woman shall seek or encourage the conduct of any pre-natal diagnostic techniques on her except for the purposes specified in clause (2).
5. no person including a relative or husband of a woman shall seek or encourage the conduct of any sex-selection technique on her or him or both.
5. **Written consent of pregnant woman and prohibition of communicating the sex of foetus.**
 1. No person referred to in clause (2) of section 3 shall conduct the pre-natal diagnostic procedures unless -
 - a) he has explained all known side and after effects of such procedures to the pregnant woman concerned;
 - b) he has obtained in the prescribed form her written consent to undergo such procedures in the language which she understands; and
 - c) a copy of her written consent obtained under clause (b) is given to the pregnant woman.
 2. No person including the person conducting pre-natal diagnostic procedures shall communicate to the pregnant woman concerned or her relatives or any other person the sex of the foetus by words, signs or in any other manner.
6. **Determination of sex prohibited** - On and from the commencement of this Act. -
 - a. no Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall conduct or cause to be conducted in its Centre, Laboratory or Clinic, pre-natal diagnostic techniques including ultrasonography, for the purpose of determining the sex of a foetus;
 - b. no person shall conduct or cause to be conducted any pre-natal diagnostic techniques including ultrasonography for the purpose of determining the sex of a foetus;
 - c. no person shall, by whatever means, cause or allow to be caused selection of sex before or after conception.

CHAPTER IV

CENTRAL SUPERVISORY BOARD

7. **Constitution of Central Supervisory Board** -

1. The Central Government shall constitute a Board to be known as the Central Supervisory Board to exercise the powers and perform the functions conferred on the Board under this Act.

2. The Board shall consist of -

- a) the Minister in charge of the Ministry or Department of Family Welfare, who shall be the Chairman, *ex-officio*;
- b) the Secretary to the Government of India in charge of the Department of Family Welfare, who shall be the Vice-Chairman, *ex-officio*;
- c) three members to be appointed by the Central Government to represent the Ministries of Central Government in charge of Women and Child Development, Department of Legal Affairs or Legislative Department in the Ministry of Law and Justice, and Indian System of Medicine and Homoeopathy, *ex-officio*;
- d) the Director General of Health Services of the Central Government, *ex-officio*;
- e) ten members to be appointed by the Central Government, two each from amongst -
 - i) eminent medical geneticists;
 - ii) eminent gynaecologist and obstetrician or expert of *stri-roga* or *prasuti-tantra*;
 - iii) eminent paediatricians;
 - iv) eminent social scientists; and
 - v) representatives of women welfare organizations;
- f) three women Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States;
- g) four members to be appointed by the Central Government by rotation to represent the States and the Union territories, two in the alphabetical order and two in the reverse alphabetical order;

Provided that no appointment under this clause shall be made except on the recommendation of the State Government or, as the case may be, the Union territory;

- h) an officer, not below the rank of a Joint Secretary or equivalent of the Central Government, in charge of Family Welfare, who shall be the Member-Secretary, *ex-officio*.

8. *Terms of office of members -*

- 1) The term of office of a member, other than an *ex-officio* member, shall be, -
 - a) in case of appointment under clause (e) or clause (f) of sub-section (2) of section 7, three years; and
 - b) in case of appointment under clause (g) of the said subsection, one year.
- 2) If a casual vacancy occurs in the office of any other members, whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity, such vacancy shall be filled by the Central Government by making a fresh appointment and the member so appointed shall hold office for the remainder of the term of office of the person in whose place he is so appointed.
- 3) The Vice-Chairman shall perform such functions as may be assigned to him by the Chairman from time to time.
- 4) The procedure to be followed by the members in the discharge of their functions shall be such as may be prescribed.

9. *Meetings of the Board -*

1. The Board shall meet at such time and place, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations:

Provided that the Board shall meet at least one in six months.

2. The Charman and in his absence the Vice-Chairman shall preside at the meetings of the Board.
 3. If for any reason the Chairman or the Vice-Chairman is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.
 4. All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.
 5. Members other than ex-officio members shall receive such allowances, if any, from the Board as may be prescribed.
- 10. *Vacancies, etc. not to invalidate proceedings of the Board*** - No act for proceeding of the Board shall be invalid merely by reason of -
- a. any vacancy in, or any defect in the constitution of, the Board; or
 - b. any defect in the appointment of a person acting as a member of the Board; or
 - c. any irregularity in the procedure of the Board not affecting the merits of the case.
- 11. *Temporary association of persons with the Board for particular purposes***
1. The Board may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice it may desire in carrying out any of the provisions of this Act.
 2. A person associated with it by the Board under sub-section (1) for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the Board and shall not be a member for any other purpose.
- 12. *Appointment of officers and other employees of the Board*** -
1. For the purpose of enabling it efficiently to discharge its functions under this Act, the Board may, subject to such regulations as may be made in this behalf, pappoint (wheter on deputation or otherwise) such number of officers and other employees as it may consider necessary;
- Provided that the appointment of such category of officers, as may be specified in such regulations, shall be subject to the approval of the Central Government.
2. Every officer or other employee appointed by the Board shall be subject to such conditions of service and shall be entitled to such remuneration as may be specified in the regulations.
- 13. *Authentication of orders and other instruments of the Board*** - All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorized by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of the Member-Secretary or any other officer of the Board authorized in link manner in this behalf.
- 14. *Disqualifications for appointment as member*** - A person shall be disqualified for being appointed as a member if, he -
- a. has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or
 - b. is an undischarged insolvent; or

- c. is of unsound mind and stands so declared by a competent court; or
- d. has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or
- e. has, in the opinion of the Central Government, such financial or other interest in the Board as is likely to affect prejudicially the discharge by him of his functions as a member; or
- f. has, in the opinion of the Central Government, been associated with the use or promotion of pre-natal diagnostic technique for determination of sex or with any sex selection technique.

15. Eligibility of member for reappointment - Subject to the other terms and conditions of service as may be prescribed, any person ceasing to be a member shall be eligible for reappointment as such member.

Provided that no member other than an *ex-officio* member shall be appointed for more than two consecutive terms.

16. Functions of the Board - The Board shall have the following functions, namely -

- i) To advise the Central Government on policy matters relating to use of pre-natal diagnostic techniques, sex selection techniques and against their misuse;
- ii) to review and monitor implementation of the Act and rules made thereunder and recommend to the Central Government changes in the said Act and rules;
- iii) to create public awareness against the practice of pre-conception sex selection and prenatal determination of sex of foetus leading to female foeticide;
- iv) to lay down code of conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics;
- v) To oversee the performance of various bodies constituted under the Act and take appropriate steps to ensure its proper and effective implementation;
- vi) Any other functions as may be prescribed under the Act.

16A. Constitution of State Supervisory Board and Union territory Supervisory Board -

1. Each State and Union territory having Legislature shall constitute a Board to be known as the State Supervisory Board or the Union territory Supervisory Board, as the case may be, which shall have the following functions :-

- i. to create public awareness against the practice of pre-conception sex selection and pre-natal determination of sex of foetus leading to female foeticide in the State;
- ii. to review the activities of the Appropriate Authorities functioning in the State and recommend appropriate action against them;
- iii. to monitor the implementation of provisions of the Act and the rules and make suitable recommendations relating thereto, to the Board;
- iv. to send such consolidated reports as may be prescribed in respect of the various activities undertaken in the State under the Act to the Board and the Central Government; and
- v. any other functions as may be prescribed under the Act.

2. The State Board shall consist of -

- a) The Minister in charge of Health and Family Welfare in the State, who shall be the Chairperson, *ex-officio*;

- b) the Secretary in charge of the Department of Health and Family Welfare who shall be the Vice-Chairperson, *ex-officio*;
 - c) Secretaries or Commissioners in charge of Departments of Women and Child Development, Social Welfare, Law and Indian System of Medicines and Homoeopathy, *ex-officio*, or their representatives;
 - d) Director of Health and Family Welfare or Indian System of Medicines and Homoeopathy of the State Government, *ex-officio*;
 - e) three women members of Legislative Assembly or Legislative Council;
 - f) ten members to be appointed by the State Government out of which two each shall be from the following categories;
 - i. eminent social scientists and legal experts;
 - ii. eminent women activists from non-governmental organizations or otherwise;
 - iii. eminent gynaecologists and obstetricians or experts of *stri-roga* or *prasuti tantra*;
 - iv. eminent paediatricians or medical geneticists;
 - v. eminent radiologists or sinologists;
 - g) an officer not below the rank of Joint Director in charge of Family Welfare, who shall be the Member Secretary, *ex-officio*.
3. The State Board shall meet at least once in four months.
 4. The term of office of a member, other than an *ex-officio* member, shall be three years.
 5. If a vacancy occurs in the office of any member other than an *ex-officio* member, it shall be filled by making fresh appointment.
 6. If a member of the Legislative Assembly or member of the Legislative Council who is a member of the State Board, becomes Minister or Speaker or Deputy Speaker of the Legislative Assembly or Chairperson or Deputy Chairperson of the Legislative Council, she shall cease to be a member of the State Board.
 7. One-third of the total number of members of the State Board shall constitute the quorum.
 8. The State Board may co-opt a member as and when required, provided that the number of co-opted members does not exceed one-third of the total strength of the State Board.
 9. The co-opted members shall have the same powers and functions as other members, except the right to vote and shall abide by the rules and regulations.
 10. In respect of matters not specified in this section, the State Board shall follow procedures and conditions as are applicable to the Board.

CHAPTER V

APPROPRIATE AUTHORITY AND ADVISORY COMMITTEE

17. *Appropriate Authority and Advisory Committee -*

1. The Central Government shall appoint, by notification in the Official Gazette, one or more Appropriate Authorities for each of the Union territories for the purposes of this Act.
2. The State Government shall appoint, by notification in the Official Gazette, one or more Appropriate Authorities for the whole or part of the State for the purposes of this Act

having regard to the interest of the problem of pre-natal sex determination leading to female foeticide.

3. The officers appointed as Appropriate Authorities under sub-section (1) or sub-section (2) shall be –
 - a) when appointed for the whole of the State or the Union territory, consisting of the following three members –
 - i. an officer of or above the rank of the Joint Director of Health and Family Welfare Chairperson;
 - ii. an eminent woman representing women’s organization; and
 - iii. an officer of Law Department of the State or the Union territory concerned;

Provided that it shall be the duty of the State or the Union territory concerned to constitute multi-member State or Union territory level Appropriate Authority within three months of the coming into force of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 2002;

Provided further that any vacancy occurring therein shall be filled within three months of that occurrence.

- b) when appointed for any part of the State or the Union territory, of such other rank as the State Government or the Central Government, as the case may be, may deem fit.
4. The Appropriate Authority shall have the following functions, namely :-
 - a) to grant, suspend or cancel registration of a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic;
 - b) to enforce standards prescribed for the Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic;
 - c) to investigate complaints of breach of the provisions of this Act or the rules made thereunder and take immediate action;
 - d) to seek and consider the advice of the Advisory committee, constituted under sub-section (5), on application for registration and on complaints for suspension or cancellation of registration.
 - e) to take appropriate legal action against the use of any sex selection technique by any person at any place; *suo motu* or brought to its notice and also to initiate independent investigations in such matter;
 - f) to create public awareness against the practice of sex selection or pre-natal determination of sex;
 - g) to supervise the implementation of the provisions of the Act and rules;
 - h) to recommend to the CSB and State Boards modifications required in the rules in accordance with changes in technology or social conditions;
 - i) to take action on the recommendations of the Advisory Committee made after investigation of complaint for suspension or cancellation of registration.
5. The Central Government or the State Government, as the case may be, shall constitute an Advisory Committee for each Appropriate Authority to aid and advise the Appropriate Authority in the discharge of its functions, and shall appoint one of the members of the Advisory Committee to be its Chairman.

6. The Advisory Committee shall consist of -
 - a) three medical experts from amongst gynecologists, obstetricians, paediatricians and medical geneticists;
 - b) one legal expert;
 - c) one office to represent the department dealing with information and publicity of the State Government or the Union territory, as the case may be;
 - d) three eminent social workers of whom not less than one shall be from amongst representatives of women's organizations.
 7. No person who has been associated with the use or promotion of pre-natal diagnostic technique for determination of sex or sex selection shall be appointed as a member of the Advisory Committee.
 8. The Advisory Committee may meet as and when it thinks fit or on the request of the Appropriate Authority for consideration of any application for registration or any complaint for suspension or cancellation of registration and to give advice thereon; Provided that the period intervening between any two meetings shall not exceed the prescribed period.
 9. The terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed by such Committee in the discharge of its functions shall be such as may be prescribed.
- 17A. **Powers of Appropriate Authorities** - The Appropriate Authority shall have the powers in respect of the following matters, namely :-
- a) summoning of any person who is in possession of any information relating to violation of the provisions of this Act or the rules made thereunder;
 - b) production of any document or material object relating to clause (a);
 - c) issuing search warrant for any place suspected to be indulging in sex selection techniques or pre-natal sex determination; and
 - d) any other matter which may be prescribed.

CHAPTER VI

REGISTRATION OF GENETIC COUNSELLING CENTRES, GENETIC LABORATORIES AND GENETIC CLINICS

18. **Registration of Genetic Counselling Centres, Genetic Laboratories or Genetic Clinics** -
- 1) No person shall open any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, including clinic, laboratory or centre having ultrasound or imaging machine or scanner or any other technology capable of undertaking determination of sex of foetus and sex selection, or render services to any of them after the commencement of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 2002 unless such centre, laboratory or clinic is duly registered under the Act.
 - 2) Every application for registration under sub-section (1), shall be made to the Appropriate Authority in such form and in such manner and shall be accompanied by such fees as may be prescribed.
 - 3) Every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic engaged, either partly or exclusively, in counseling or conducting pre-natal diagnostic techniques for any of the purposes mentioned in section 4, immediately before the commencement of this Act, shall apply for registration within sixty days from the date of such commencement.

- 4) Subject to the provisions of section 6, every Genetic counseling Centre, Genetic Laboratory or Genetic Clinic engaged in counseling or conducting pre-natal diagnostic techniques shall cease to conduct any such counseling or technique on the expiry of six months from the date of commencement of this Act unless such Centre, Laboratory or Clinic has applied for registration and is so registered separately or jointly or till such application is disposed of, whichever is earlier.
- 5) No Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall be registered under this Act unless the Appropriate Authority is satisfied that such Centre, Laboratory or Clinic is in a position to provide such facilities, maintain such equipment and standards as may be prescribed.

19. Certificate of registration -

1. The Appropriate Authority shall, after holding an inquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules made thereunder and having regard to the advice of the Advisory Committee in this behalf, grant a certificate of registration in the prescribed form jointly or separately to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, as the case may be.
2. If, after the inquiry and after giving an opportunity of being heard to the applicant and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of this Act or the rules, it shall, for reasons to be recorded in writing, reject the application for registration.
3. Every certificate of registration shall be renewed in such manner and after such period and on payment of such fees as may be prescribed.
4. The certificate of registration shall be displayed by the registered Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic in a conspicuous place at its place of business.

20. Cancellation or suspension of registration -

1. The Appropriate Authority may *suo moto*, or on complaint, issue a notice to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic to show cause why its registration should not be suspended or cancelled for the reasons mentioned in the notice.
2. If, after giving a reasonable opportunity of being heard to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that there has been a breach of the provisions of this Act or the rules, it may, without prejudice to any criminal action that it may take against such Centre, Laboratory or Clinic, suspend its registration for such period as it may think fit or cancel its registration, as the case may be.
3. Notwithstanding anything contained in sub-section (1) and (2), if the Appropriate Authority is, of the opinion that it is necessary or expedient so to do in the public interest, it may, for reasons to be recorded in writing, suspend the registration of any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic without issuing any such notice referred to in sub-section (1).

- 21. Appeal -** The Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic may, within thirty days from the date of receipt of the order of suspension or cancellation of registration passed by the Appropriate Authority under section 20, prefer an appeal against such order to -
- i. the Central Government, where the appeal is against the order of the Central Appropriate Authority; and
 - ii. the State Government, where the appeal is against the order of the State Appropriate Authority, in the prescribed manner.

CHAPTER VII

OFFENCES AND PENALTIES

22. *Prohibition of advertisement relating to pre-natal determination of sex and punishment for contravention -*

1. No person, organization, Genetic counselling Centre, Genetic Laboratory or Genetic Clinic, including clinic, laboratory or centre having ultrasound machine or imaging machine or scanner or any other technology capable of undertaking determination of sex of foetus or sex selection shall issue, publish, distribute, communicate or cause to be issued, published, distributed or communicated any advertisement, in any form, including internet, regarding facilities of pre-natal determination of sex or sex selection before conception available at such centre, laboratory, clinic or at any other place.
2. No person or organization including Genetic Counselling centre, Genetic Laboratory or Genetic Clinic shall issue, publish, distribute, communicate or cause to be issued, published, distributed or communicated any advertisement in any manner regarding pre-natal determination or pre-conception selection of sex by any means whatsoever, scientific or otherwise.
3. Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees.

Explanation - For the purposes of this section, 'advertisement' includes any notice, circular, label, wrapper or any other document including advertisement through internet or any other media in electronic or print form and also includes any visible representation made by means of any hoarding, wall-painting, signal, light, sound, smoke or gas.

23. *Offences and penalties -*

- 1) Any medical geneticist, gynaecologist, registered medical practitioner or any person who owns a Genetic counselling Centre, a Genetic Laboratory or a Genetic Clinic or is employed in such a Centre, Laboratory or Clinic and renders his professional or technical services to or at such a Centre, Laboratory or Clinic, whether on an honorary basis or otherwise, and who contravenes any of the provisions of this Act or rules made thereunder shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction, with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.
- 2) The name of the registered medical practitioner shall be reported by the Appropriate Authority to the State Medical Council concerned for taking necessary action including suspension of the registration if the changes are framed by the court and till the case is disposed of and on conviction for removal of his name from the register of the Council for a period of five years for the first offence and permanently for the subsequent offence.
- 3) Any person who seeks the aid of a Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or ultrasound clinic or imaging clinic or of a medical geneticist, gynaecologist, sonologist or imaging specialist or registered medical practitioner or any other person for sex selection or for conducting pre-natal diagnostic techniques on any pregnant women for the purposes other than those specified in sub-section (2) of section 4, he shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to fifty thousand rupees for the first offence and for any subsequent offence with imprisonment which may extend to five years and with fine which may extend to one lakh rupees.

- 4) For the removal of doubts, it is hereby provided, that the provisions of sub-section (3) shall not apply to the woman who was compelled to undergo such diagnostic techniques or such selection.
24. **Presumption in the case of conduct of pre-natal diagnostic techniques** - Notwithstanding anything contained in the Indian Evidence Act, 1872, the court shall presume unless the contrary is proved that the pregnant woman was compelled by her husband or any other relative, as the case may be, to undergo pre-natal diagnostic technique for the purposes other than those specified in sub-section (2) of section 4 and such person shall be liable for abetment of offence under sub-section (3) of section 23 and shall be punishable for the offence specified under that section.
25. **Penalty for contravention of the provisions of the Act or rules for which no specific punishment is provided** - Whoever contravenes any of the provisions of this Act or any rules made thereunder, for which no penalty has been elsewhere 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.
26. **Offences by companies** -
1. Where any offence, punishable under this Act has been committed by 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 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;
- Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.
- Notwithstanding anything contained in sub-section (1), where any offence punishable 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 purposes 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.
27. **Offence to be cognizable, non-bailable and non-compoundable** - Every offence under this Act shall be cognizable, non-bailable and non-compoundable.
28. **Cognizance of offences** -
1. No court shall take cognizance of an offence under this Act except on a complaint made by -
- (a) The Appropriate Authority concerned, or any officer authorized in this behalf by the Central Government or State Government, as the case may be, or the Appropriate Authority; or

- (b) A person who has given notice of not less than fifteen days in the manner prescribed, to the Appropriate Authority, of the alleged offence and of his intention to make a complaint to the court.

Explanation – For the purpose of this clause, “person” includes a social organization.

2. No court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.
3. Where a complaint has been made under clause (b) of subsection (1), the court may, on demand by such person, direct the Appropriate Authority to make available copies of the relevant records in its possession to such person.

CHAPTER VIII

MISCELLANEOUS

29. *Maintenance of records* –

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

Provided that, if any criminal or other proceedings are instituted against any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, the records and all other documents of such Centre, Laboratory or Clinic 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 Appropriate Authority or to any other person authorized by the Appropriate Authority in this behalf.

30. *Power to search and seize records, etc* –

1. If the Appropriate Authority has reason to believe that an offence under this Act has been or is being committed at any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic or any other place, such authority or any officer authorized thereof in this behalf may, subject to such rules as may be prescribed, enter and search at all reasonable times with such assistance, if any, as such authority or officer considers necessary, such Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic or any other place and examine any record, register, document, book, pamphlet, advertisement or any other material object found therein and seize and seal the same if such Authority or officer has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.
2. The provisions of the Code of Criminal procedure, 1973 (2 of 1974) relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act.

31. *Protection of action taken in good faith* – No suit, prosecution or other legal proceeding shall lie against the Central or the State Government or the Appropriate Authority or any officer authorized by the Central or State Government or by the Authority for anything which is in good faith, done or intended to be done in pursuance of the provisions of this Act.

31A. *Removal of difficulties* –

1. If any difficulty arises in giving effect to the provisions of the Pre-natal Diagnostic Techniques (Regulation, and Prevention of Misuse) Amendment Act, 2002, the Central Government may, by order published in the Official Gazette, make such provisions not

inconsistent with the provisions of the said Act as appear to it to be necessary or expedient for removing the difficulty.

Provided that no order shall be made under this section after the expiry of a period of three years from the date of commencement of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 2002.

2. Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

32. *Power to make rules -*

1. The Central Government may make rules for carrying out the provisions of this Act.
2. In particular and without prejudice to the generality of the foregoing power, such rules may provide for -
 - (i) the minimum qualifications for persons employed at a registered Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under clause (2) of section 3;
 - (ia) the manner in which the person conducting ultrasonography on a pregnant woman shall keep record thereof in the clinic under the proviso to sub-section (3) of section 4;
 - (ii) the form in which consent of a pregnant woman has to be obtained under section 5;
 - (iii) the procedure to be followed by the members of the Central Supervisory Board in the discharge of their functions under sub-section (4) of section 8;
 - (iv) allowances for members other than ex-officio members admissible under subsection (5) of section 9;
 - (iva) code of conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics to be laid down by the Central Supervisory Board under clause (iv) of Section 16;
 - (ivb) the manner in which reports shall be furnished by the State and Union territory Supervisory Boards to the Board and the Central Government in respect of various activities undertaken in the State under the Act under clause (iv) of sub-section (1) of section 16A;
 - (ivc) empowering the Appropriate Authority in any other matter under clause (d) of section 17A;
 - (v) the period intervening between any two meetings of the Advisory Committee under the proviso to subsection (8) of section 17;
 - (vi) the terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed by such Committee under sub-section (9) of section 17;
 - (vii) the form and manner in which an application shall be made for registration and the fee payable thereof under sub-section (2) of section 18;
 - (viii) the facilities to be provided, equipment and other standards to be maintained by the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under sub-section (5) of section 18;
 - (ix) the form in which a certificate of registration shall be issued under sub-section (1) of section 19;
 - (x) the manner in which and the period after which a certificate of registration shall be renewed and the fee payable for such renewal under sub-section (3) of section 19;

- (xi) the manner in which an appeal may be preferred under section 21;
 - (xii) the period up to which records, charts, etc., shall be preserved under sub-section (1) of section 29;
 - (xiii) the manner in which the seizure of documents, records, objects, etc., shall be made and the manner in which seizure list shall be prepared and delivered to the person from whose custody such documents, records or objects were seized under sub-section (1) of section 30;
 - (xiv) Any other matter that is required to be, or may be, prescribed.
33. **Power to make regulations** - The Board may, with the previous sanction of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder to provide for -
- (a) The time and place of the meetings of the Board and the procedure to be followed for the transaction of business at such meetings and the number of members which shall form the quorum under sub-section (1) of section 9;
 - (b) The manner in which a person may be temporarily associated with the Board under sub-section (1) of section 11;
 - (c) The method of appointment the conditions of service and the scales of pay and allowances of the officer and other employees of the Board appointed under section 12;
 - (d) Generally for the efficient conduct of the affairs of the Board.
34. **Rules and regulations to be laid before Parliament** - Every rule and every regulation made 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation 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 the rule or regulation.

**THE PRE-NATAL DIAGNOSTIC TECHNIQUES
(REGULATION AND PREVENTION OF MISUSE) RULES, 1996**

AND

**PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES
(PROHIBITION OF SEX SELECTION) RULES, 1996**

1. Short title and commencement -

1. These rules may be called the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996.
2. They shall come into force on the date of their publication in the Official Gazette.

2. Definitions - In these rules, unless the context otherwise requires -

- (a) "Act" means The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994);
- (b) "employee" means a person working in or employed by a Genetic Counselling Centre, a Genetic Laboratory or a Genetic Clinic, and includes those working on part-time, contractual, consultancy, honorary or on any other basis;
- (c) "Form" means a Form appended to these rules;
- (d) XXXX
- (e) "Section" means a section of the Act;
- (f) Words and expressions used herein and not defined in these rules but defined in the Act, shall have the meanings, respectively, assigned to them in the Act.

3. The qualifications of the employees, the requirement of equipment etc. for a Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre shall be as under;

1. Any person being or employing

- (i) A gynaecologist for a paediatrician having six months experience or four weeks training in genetic counselling or
- (ii) A medical geneticist,

Having adequate space and educational charts/models/equipments for carrying out genetic counseling may set up a genetic counselling centre and get it registered as a genetic counselling centre.

2. (a) Any person having adequate space and being or employing

- (i) a Medical Geneticist and
- (ii) a laboratory technician having a B.Sc. degree in Biological Sciences or a degree or diploma in medical laboratory course with at least one year experience in conducting appropriate pre-natal diagnostic techniques, tests or procedures may set up a genetic laboratory.
- (b) Such laboratory should have or acquire such of the following equipments as may be necessary for carrying out chromosomal studies, bio-chemical studies and molecular studies:
 - (i) Chromosomal studies :
 - (1) Laminar flow hood with ultraviolet and fluorescent light or other suitable culture hood.

- (2) Photo-microscope with fluorescent source of light
- (3) Inverted microscop
- (4) Incubator and oven
- (5) Carbon-dioxide incubator or closed system with 5% CO₂ atmosphere
- (6) Autoclave
- (7) Refrigerator
- (8) Water bath
- (9) Centrifuge
- (10)Vortex mixer
- (11)Magnetic stirrer
- (12)pH meter
- (13)A sensitive balance (preferable electronic) with sensitivity of 0.1 milligram
- (14)Double distillation apparatus (glass)
- (15)Such other equipment as may be necessary

(ii) Biochemical studies :

(requirements according to tests to be carried out)

- (1) Laminar flow hood with ultraviolet and fluorescent light or other suitable culture hood.
- (2) Inverted microscope.
- (3) Incubator and oven
- (4) Carbon-dioxide incubator or closed system with 5% CO₂ atmosphere
- (5) Autoclave
- (6) Refrigerator
- (7) Water bath
- (8) Centrifuge
- (9) Electrophoresis apparatus and power supply
- (10)Chromatography chamber
- (11)Spectro-photometer and Elisa reader or Radio-immunoassay system (with gamma batacounter) or fluorometer for various biochemical test.
- (12)Vortex mixer
- (13)Magnetic stirrer
- (14)pH meter
- (15)A sensitive balance (preferable electronic) with sensitivity of 0.1 milligram
- (16)Double distillation apparatus (glass)
- (17)Liquid nitrogen tank
- (18)Such other equipment as may be necessary

(iii) Molecular studies :

-
- (1) Inverted microscope
 - (2) Incubator
 - (3) Oven
 - (4) Autoclave
 - (5) Refrigerators (4 degree and minus 20 degree Centigrade)
 - (6) Water bath
 - (7) Microcentrifuge
 - (8) Electrophoresis apparatus and power supply
 - (9) Vortex mixer
 - (10) Magnetic stirrer
 - (11) pH meter
 - (12) A sensitive balance (preferable electronic) with sensitivity of 0.1 milligram
 - (13) Double distillation apparatus (glass)
 - (14) P.C.R. machine
 - (15) Refrigerated centrifuge
 - (16) U.V. Illuminator with photographic attachment or other documentation system
 - (17) Precision micropipettes.
 - (18) Such other equipments as may be necessary
3. (1) Any person having adequate space and being or employing
- (a) Gynaecologist having experience of performing at least 20 procedures in chorionic villi aspirations per vagina or per abdomen, chorionic villi biopsy, amniocentesis, cordocentesis foetoscopy, foetal skin or organ biopsy or foetal blood sampling etc. under supervision of an experienced gynaecologist in these fields, or
 - (b) a Sonologist, Imaging Specialist, Radiologist or Registered Medical Practitioner having Post Graduate degree or diploma or six months training or one year experience in sonography or image scanning, or
 - (c) a medical geneticist may set up a genetic clinic/ultrasound clinic/imaging centre.
- (2) The Genetic Clinic/ultrasound clinic/imaging centre should have or acquire such of the following equipments, as may be necessary for carrying out the tests or procedures -
- (a) Equipment and accessories necessary for carrying out clinical examination by an obstetrician or gynaecologist.
 - (b) An ultra-sonography machine including mobile ultrasound machine, imaging machine or any other equipment capable of conducting foetal ultrasonography.
 - (c) Appropriate catheters and equipment for carrying out chorionic villi aspirations per vagina or per abdomen.
 - (d) Appropriate sterile needles for amniocentesis or cordocentesis
 - (e) A suitable foetoscope with appropriate accessories for foetoscopy, foetal skin or organ biopsy or foetal blood sampling shall be optional.
 - (f) Equipment for dry and wet sterilization.
-

(g) Equipment for carrying out emergency procedures such as evacuation of uterus or resuscitation in case of need.

(h) Genetic Works Station.

3A. *Sale of ultrasound machines/imaging machines -*

1. No organization including a commercial organization or a person, including manufacturer, importer, dealer or supplier of ultrasound machines/imaging machines or any other equipment, capable of detecting sex of foetus, shall sell, distribute, supply, rent, allow or authorize the use of any such machine or equipment in any manner, whether on payment or otherwise, to any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic, Imaging Centre or any other body or person unless such Centre, Laboratory, Clinic, body or person is registered under the Act.
2. The provider of such machine/equipment to any person/body registered under the Act shall send to the concerned State/UT Appropriate Authority and to the Central Government, once in three months a list of those to whom the machine/equipment has been provided.
3. Any organization or person, including manufacturer, importer, dealer or supplier of ultrasound machines/imaging machines or any other equipment capable of detecting sex of foetus selling, distributing, supplying or authorizing in any manner, the use of any such machine or equipment to any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic, Imaging Centre or any other body or person registered under the Act shall take an affidavit from such body or person purchasing or getting authorization for using such machine/equipment that the machine/equipment shall not be used for detection of sex of foetus or selection of sex before or after conception.

4. *Registration of Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic -*

1. An application for registration shall be made to the Appropriate Authority, in duplicate, in Form A, duly accompanied by an Affidavit containing -
 - (i) an undertaking to the effect that the *Genetic Centre/Laboratory/Clinic/Ultrasound Clinic/Imaging Centre*/combination thereof, as the case may be, shall not conduct any test or procedure, by whatever name called, for selection of sex before or after conception or for detection of sex of foetus except for diseases specified in Section 4(2) nor shall the sex of foetus be disclosed to any body; and
 - (ii) an undertaking to the effect that the *Genetic Centre/Laboratory/Clinic*/combination thereof, as the case may be, shall display prominently a notice that they do not conduct any technique, test or procedure etc. by whatever name called, for detection of sex of foetus or for selection of sex before or after conception.
2. The Appropriate Authority, or any person in his office authorized in this behalf, shall acknowledge receipt of the application for registration, in the acknowledgement slip provided at the bottom of Form A, immediately if delivered at the office of the Appropriate Authority, or not later than the next working day if received by post.

5. *Application Fee -*

1. Every application for registration under rule 4 shall be accompanied by an application fee of -
 - (a) Rs.3000 for Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre.

- (b) Rs.4000 for an institute, hospital, nursing home, or any place providing jointly the service of a Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic, Ultrasound Clinic or Imaging Centre or any combination thereof.

Provided that if an application for registration of any Genetic Clinic / Laboratory / Centre etc. has been rejected by the Appropriate Authority, no fee shall be required to be paid on resubmission of the application by the applicant for the same body within 90 days of rejection. Provided further that any subsequent application shall be accompanied with the prescribed fee. Application fee once paid will not be refunded.

2. The application fee shall be paid by a demand draft drawn in favour of the Appropriate Authority, on any scheduled bank payable at the head quarters of the Appropriate Authority concerned. The fees collected by the Appropriate Authority for registration of Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre or any other body or person under sub-rule (1), shall be deposited by the Appropriate Authority concerned in a bank account opened in the name of the official designation of the Appropriate Authority concerned and shall be utilized by the Appropriate Authority in connection with the activities connected with implementation of the provisions of the Act and these rules.

6. *Certificate of registration -*

1. The Appropriate Authority shall, after making such enquiry and after satisfying itself that the applicant has complied with all the requirements, place the application before the Advisory Committee for its advice.
2. Having regard to the advice of the Advisory Committee the Appropriate Authority shall grant a certificate of registration, in duplicate, in Form B to the applicant. One copy of the certificate of registration shall be displayed by the registered Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre at a conspicuous place at its place of business:

Provided that the Appropriate Authority may grant a certificate of registration to a Genetic Laboratory or a Genetic Clinic, Ultrasound Clinic or Imaging Centre to conduct one or more specified pre-natal diagnostic tests or procedures, depending on the availability of place, equipment and qualified employees, and standards maintained by such laboratory or clinic.

3. If, after enquiry and after giving an opportunity of being heard to the applicant and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of the Act and these rules, it shall, for the reasons to be recorded in writing, reject the application for registration and communicate such rejection to the applicant as specified in Form C.
4. An enquiry under sub-rule(1), including inspection at the premises of the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre, shall be carried out only after due notice is given to the applicant by the Appropriate Authority.
5. Grant of certificate of registration or rejection of application for registration shall be communicated to the applicant as specified in Form B or Form C, as the case may be, within a period of ninety days from the date of receipt of application for registration.
6. The certificate of registration shall be non-transferable. In the event of change of ownership or change of management or on ceasing to function as a Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre, both copies, of the certificate of registration shall be surrendered to the Appropriate Authority.

7. In the event of change of ownership or change of management of the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre, the new owner or manager of such Centre, Laboratory or Clinic shall apply afresh for grant of certificate of registration.
7. **Validity of registration** - Every certificate of registration shall be valid for a period of five years from the date of its issue.
8. **Renewal of registration** -
 1. An application for renewal of certificate of registration shall be made in duplicate in Form A, to the Appropriate Authority thirty days before the date of expiry of the certificate of registration. Acknowledgement of receipt of such application shall be issued by the Appropriate Authority in the manner specified in sub-rule (2) of rule 4.
 2. The Appropriate Authority shall, after holding an enquiry and after satisfying itself that the applicant has complied with all the requirements of the Act and these rules and having regard to the advice of the Advisory Committee in this behalf, renew the certificate of registration, as specified in Form B, for a further period of five years from the date of expiry of the certificate of registration earlier granted.
 3. If, after enquiry and after giving an opportunity of being heard to the applicant and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of the Act and these rules, it shall, for reasons to be recorded in writing, reject the application for renewal of certificate of registration and communicate such rejection to the applicant as specified in Form C.
 4. The fees payable for renewal of certificate of registration shall be one half of the fees provided in sub-rule (1) of rule 5.
 5. On receipt of the renewed certificate of registration in duplicate or on receipt of communication of rejection of application for renewal, both copies of the earlier certificate of registration shall be surrendered immediately to the Appropriate Authority by the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre.
 6. In the event of failure of the Appropriate Authority to renew the certificate of registration or to communicate rejection of application for renewal of registration within a period of ninety days from the date of receipt of application for renewal of registration, the certificate of registration shall be deemed to have been renewed.
9. **Maintenance and preservation of records** -
 1. Every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre shall maintain a register showing, in serial order, the names and addresses of the men or women given genetic counseling, subjected to pre-natal diagnostic procedures or pre-natal diagnostic tests, the names of their spouses or fathers and the date on which they first reported for such counseling, procedure or test.
 2. The record to be maintained by every Genetic Counselling Centre, in respect of each woman counseled shall be as specified in Form D.
 3. The record to be maintained by every Genetic Laboratory, in respect of each man or woman subjected to any pre-natal diagnostic procedure/technique/test, shall be as specified in Form E.
 4. The record to be maintained by every Genetic Clinic, in respect of each man or woman subjected to any pre-natal diagnostic procedure/technique/test, shall be as specified in Form F.

5. The Appropriate Authority shall maintain a permanent record of applications for grant or renewal of certificate of registration as specified in Form H. Letters of intimation of every charge of employee, place, address and equipment installed shall also be preserved as permanent records.
 6. All case related records, forms of consent, laboratory results, microscopic pictures, sonographic plates or slides, recommendations and letters shall be preserved by the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre for a period of two years from the date of completion of counselling, pre-natal diagnostic procedure or pre-natal diagnostic test, as the case may be. In the event of any legal proceedings, the records shall be preserved till the final disposal of legal proceedings, or till the expiry of the said period of two years, whichever is later.
 7. In case the Genetic Counselling Centre or Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre maintains records on computer or other electronic equipment, a printed copy of the record shall be taken and preserved after authentication by a person responsible for such record.
 8. Every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre shall send a complete report in respect of all pre-conception or pregnancy related procedures/techniques/tests conducted by them in respect of each month by 5th day of the following month to the concerned Appropriate Authority.
10. **Conditions for conducting pre-natal diagnostic procedures -**
1. Before conducting preimplantation genetic diagnosis, or any pre-natal diagnostic technique/test/procedure such as amniocentesis, chorionic villi biopsy, foetal skin or organ biopsy or cordocentesis, a written consent, as specified in Form G, in a language the person undergoing such procedure understands, shall be obtained from her/him;
 Provided that where a Genetic Clinic has taken a sample of any body tissue or body fluid and sent it to a Genetic Laboratory for analysis or test, it shall not be necessary for the Genetic Laboratory to obtain a fresh consent in Form G.
 - 1A. Any person conducting ultrasonography/image scanning on a pregnant woman shall give a declaration on each report on ultrasonography/image scanning that he/she has neither detected nor disclosed the sex of foetus of the pregnant woman to any body. The pregnant woman shall before undergoing ultrasonography/image scanning declare that she does not want to know the sex of her foetus.
 2. All the State Governments and Union Territories may issue translation of Form G in languages used in the State or Union Territory and where no official translation in a language understood by the pregnant woman is available, the Genetic Clinic may translate Form G into a language she understands.
11. **Facilities for inspection -**
1. Every Genetic counseling Centre, Genetic Laboratory and Genetic Clinic, Ultrasound Clinic, Imaging Centre, nursing home, hospital, institute or any other place where any of the machines or equipments capable of performing any procedure, technique or pre-natal determination of sex or selection of sex before or after conception is used, shall afford all reasonable facilities for inspection of the place, equipment and records to the Appropriate Authority or to any other person authorized by the Appropriate Authority in this behalf for registration of such institutions, by whatever name called, under the Act, or for detection of misuse of such facilities or advertisement therefore or for selection of sex before or after conception or for detection/disclosure of sex of foetus or for detection of cases of violation of the provision of the Act in any other manner.

2. The Appropriate Authority or the officer authorized by it may seal and seize any ultrasound machine, scanner or any other equipment, capable of detecting sex of foetus, used by any organization if the organization has not got itself registered under the Act. These machines of the organizations may be released if such organization pays penalty equal to five times of the registration fee to the Appropriate Authority concerned and gives an undertaking that it shall not undertake detection of sex of foetus or selection of sex before or after conception.

12. Procedure for search and seizure -

1. The Appropriate Authority or any officer authorized in this behalf may enter and search at all reasonable times any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Imaging Centre or Ultrasound Clinic in the presence of two or more independent witnesses for the purposes of search and examination of any record, register, document, book, pamphlet, advertisement, or any other material object found therein and seal and seize the same if there is reason to believe that it may furnish evidence of commission of an offence punishable under the Act.

Explanation :- In these Rules -

1. 'Genetic Laboratory/Genetic Clinic/Genetic Counselling Centre' would include an ultrasound centre/imaging centre/nursing home/hospital/institute or any other place, by whatever name called, where any of the machines or equipments capable of selection of sex before or after conception or performing any procedure, technique or test for pre-natal detection of sex of foetus is used;
2. 'material object' would include records, machines and equipments; and
3. 'seize and seizure' would include 'seal' and 'sealing' respectively.
2. A list of any document, record, register, book, pamphlet, advertisement or any other material object found in the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre and seized shall be prepared in duplicate at the place of effecting the seizure. Both copies of such list shall be signed on every page by the Appropriate Authority or the officer authorized in this behalf and by the witnesses to the seizure:

Provided that the list may be prepared, in the presence of the witnesses, at a place other than the place of seizure if, for reasons to be recorded in writing, it is not practicable to make the list at the place of effecting the seizure.
3. One copy of the list referred to in sub-rule (2) shall be handed over, under acknowledgement, to the person from whose custody the document, record, register, book, pamphlet, advertisement or any other material object have been seized:

Provided that a copy of the list of such document, record, register, book, pamphlet, advertisement or other material object seized may be delivered under acknowledgement, or sent by registered post to the owner or manager of the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre, if no person acknowledging custody of the document, record, register, book pamphlet, advertisement or other material object seized is available at the place of effecting the seizure.

4. If any material object seized is perishable in nature, the Appropriate Authority, or the officer authorized in this behalf shall make arrangements promptly for sealing, identification and preservation of the material object and also convey it to a facility for analysis or test, if analysis or test be required:

Provided that the refrigerator or other equipment used by the Genetic counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre for preserving such perishable material, object may be sealed until such time as arrangements can be made for safe removal of such perishable material object and in such eventuality, mention of keeping the material object seized, on the premises of the Genetic counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre shall be made in the list of seizure.

5. In the case of non-completion of search and seizure operation, the Appropriate Authority or the officer authorized in this behalf may make arrangement, by way of mounting a guard or sealing of the premises of the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic Ultrasound Clinic or Imaging Centre for safe keeping, listing and removal of documents, records, book or any other material object to be seized, and to prevent any tampering with such documents, records, books or any other material object.
- 13. Intimation of changes in employees, place or equipment :-** Every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre shall intimate every change of employee, place, address and equipment installed, to the Appropriate Authority within a period of thirty days of such change.
- 14. Conditions for analysis or test and pre-natal diagnostic procedures -**
1. No Genetic Laboratory shall accept for analysis or test may sample, unless referred to it by a Genetic Clinic.
 2. Every pre-natal diagnostic procedure shall invariably be immediately preceded by locating the foetus and placenta through ultrasonography, and the pre-natal diagnostic procedure shall be done under direct ultrasonographic monitoring so as to prevent any damage to the foetus and placenta.
- 15. Meeting of the Advisory Committees :-** The intervening period between any two meetings of Advisory Committees constituted under sub-section (5) of Section 17 to advise the Appropriate Authority shall not exceed sixty days.
- 16. Allowances to members of the Central Supervisory Board :-**
1. The ex-officio members, and other Central and State Government officers appointed to the Board will entitled to Travelling Allowance and Daily Allowance for attending the meetings of the Board as per the Travelling Allowance rules applicable to them.
 2. The non-official members appointed to, and Members of Parliament elected to the Board will be entitled to Travelling Allowance and Daily Allowance for attending the meetings of the Board as admissible to non-official and Members of Parliament as the case may be, under the Travelling Allowances rules of the Central Government.
- 17. Public Information -**
1. Every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre shall prominently display on its premises a notice in English and in the local language or languages for the information of the public, to effect that disclosure of the sex of the foetus is prohibited under law.
 2. At least one copy each of the Act and these rules shall be available on the premises of every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre, and shall be made available to the clientele on demand for perusal.
 3. The Appropriate Authority, the Central Government, the State Government, and the Government/Administration of the Union Territory may publish periodically lists of registered Genetic Counselling Centres, Genetic Laboratories, Genetic Clinics, Ultrasound

Clinics and Imaging Centres and findings from the reports and other information in their possession, for the information of the public and for use by the experts in the field.

18. Code of Conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories, Genetic Clinics, Ultrasound Clinics, Imaging Centres etc - All persons including the owner, employee or any other person associated with Genetic Counselling Centres, Genetic Laboratories, Genetic Clinics, Ultrasound Clinics, Imaging Centres registered under the Act/these Rules shall -

- i. not conduct or associate with or help in carrying out detection or disclosure of sex of foetus in any manner;
- ii. not employ or cause to be employed any person not possessing qualifications necessary for carrying out pre-natal diagnostic techniques/procedures and tests including ultrasonography;
- iii. not conduct or cause to be conducted or aid in conducting by himself or through any other person any techniques or procedure for selection of sex before or after conception or for detection of sex of foetus except for the purposes specified in sub-section (2) of section 4 of the Act;
- iv. not conduct of cause to be conducted or aid in conducting by himself or through any other person any techniques or test or procedure under the Act at a place other than a place registered under the Act/the Rules;
- v. ensure that no provision of the Act and these Rules are violated in any manner;
- vi. ensure that the person conducting any techniques, test or procedure leading to detection of sex or foetus for purposes not covered under section 4(2) of the Act or selection of sex before or after conception, is informed that such procedures lead to violation of the Act and the Rules which are punishable offences;
- vii. help the law enforcing agencies in bringing to book the violators of the provisions of the Act and the Rules;
- viii. display his/her name and designation prominently on the dress worn by him/her;
- ix. write his/her name and designation in full under his/her signature;
- x. on no account conduct or allow/cause to be conducted female foeticide;
- xi. not commit any other act of professional misconduct.

19. Appeals -

1. Anybody aggrieved by the decision of the Appropriate Authority at sub-district level may appeal to the Appropriate Authority at district level within 30 days of the order of the sub-district level Appropriate Authority.
2. Anybody aggrieved by the decision of the Appropriate Authority at district level may appeal to the Appropriate Authority at State/UT level within 30 days of the order of the District level Appropriate Authority.
3. Each appeal shall be disposed of by the District Appropriate Authority or by the State/ Union Territory Appropriate Authority, as the case may be, within 60 days of its receipt.

FORM A

[See rules 4(1) and 8(1)]

(To be submitted in Duplicate with supporting documents as enclosures)

**FORM OF APPLICATION FOR REGISTRATION OR RENEWAL OF REGISTRATION
OF A GENETIC COUNSELLING CENTRE/GENETIC LABORATORY/GENETIC
CLINIC/ULTRASOUND CLINIC/IMAGING CENTRE**

1. Name of the applicant
(Indicate name of the organization sought to be registered)
2. Address of the applicant
3. Type of facility to be registered
(Please specify whether the application is for registration of a Genetic Counselling Centre/ Genetic Laboratory/Genetic Clinic/ Ultrasound Clinic/Imaging Centre or any combination of these)
4. Full name and address/addresses of Genetic Counselling Centre/Genetic Laboratory/ Genetic Clinic/ Ultrasound Clinic/Imaging Centre with Telephone/Fax number(s)/ Telegraphic/Telex/e-mail address(es).
5. Type of ownership of Organisation (individual / ownership / partnership / company / co-operative / any other to be specified). In case type of organization is other than individual ownership, furnish copy of articles of association and names and addresses of other persons responsible for management, as enclosure.
6. Type of Institution (Govt. Hospital/Municipal Hospital/Public Hospital/Private Hospital/Private Nursing Home/Private Clinic/Private Laboratory/any other to be stated)
7. Specific pre-natal diagnostic procedures/tests for which approval is sought
 - (a) Invasive (i) amniocentesis / chorionic villi aspiration/chromosomal/biochemical/ molecular studies
 - (b) Non-Invasive Ultrasonography Leave blank if registration is sought for Genetic counseling Centre only.
8. Equipment available with the make and model of each equipment. (List to be attached on a separate sheet).
9. (a) Facilities available in the Counselling Centre.

- (b) Whether facilities are or would be available in the Laboratory/Clinic for the following tests:
- (i) Ultrasound
 - (ii) Amniocentesis
 - (iii) Chorionic villi aspiration
 - (iv) Foetoscopy
 - (v) Foetal biopsy
 - (vi) Cordocentesis
- (c) Whether facilities are available in the Laboratory Clinic for the following :
- (i) Chromosomal studies
 - (ii) Biochemical studies
 - (iii) Molecular studies
 - (iv) Preimplantation gender diagnosis
10. Names, qualifications, experience and registration number of employees (may be furnished as an enclosure)
11. State whether the Genetic Counselling Centre/ Genetic Laboratory / Genetic Clinic / ultrasound clinic/imaging centre qualifies for registration in terms of requirements laid down in Rule 3.
12. For renewal applications only :
- (a) Registration No.
 - (b) Date of issue and date of expiry of existing certificate of registration.
13. List of Enclosures:
(Please attach a list of enclosures/supporting documents attached to this application).

Date :

Place:

(.....)

Name, designation and signature of the person authorized to sign on behalf of the organization to be registered.

DECLARATION

I Sh./Smt./Kum./Dr..... son/daughter/
wife of aged years resident
of working as (indicate designation)
..... hereby declare that I have read and understood

¹ Strike out whichever is not applicable or not necessary. All enclosures are to be authenticated by signature of the applicant.

the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994) and the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Rules, 1996.

I also undertake to explain the said Act and Rules to all employees of the Genetic counseling Centre/Genetic Laboratory/Genetic Clinic/ultrasound clinic/imaging centre in respect of which registration is sought and to ensure that Act and Rules are fully complied with.

Date :

Place: (.....)

Name, designation and signature of the person authorized to sign on behalf of the organization to be registered.

[SEAL OF THE ORGANISATION SOUGHT TO BE REGISTERED]

ACKNOWLEDGEMENT

[See Rules 4(2) and 8(1)]

The application in Form A in duplicate for grant*/renewal* of registration of Genetic counseling Centre*/ Genetic Laboratory* / Genetic Clinic*/ Ultrasound Clinic*/ Imaging Centre* by (Name and address of applicant) has been received by the Appropriate Authority On (date).

*The list of enclosures attached to the application if Form A has been verified with the enclosures submitted and found to be correct.

OR

*On verification it is found that the following documents mentioned in the list of enclosures are not actually enclosed.

This acknowledgement does not confer any rights on the applicant for grant or renewal of registration.

(.....) Signature and Designation of Appropriate Authority, or authorized Person in the Office of the Appropriate Authority

Date :

Place: SEAL

ORIGINAL / DUPLICATE FOR DISPLAY

FORM B

[See Rules 6(2), 6(5) and 8(2)]

CERTIFICATE OF REGISTRATION

(To be issued in duplicate)

1. In exercise of the powers conferred under Section 19 (1) of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994), the Appropriate Authority hereby grants registration to the Genetic Counselling Centre*/Genetic Laboratory*/Genetic Clinic*/Ultrasound Clinic*/Imaging Centre* named below for purposes of carrying out Genetic Counselling/Pre-natal diagnostic Procedures*/ Pre-Natal Diagnostic Tests/ ultrasonography under the aforesaid Act for a period of five years ending on
 2. This registration is granted subject to the aforesaid Act and Rules thereunder and any contravention thereof shall result in suspension or cancellation of this Certificate of Registration before the expiry of the said period of five years apart from prosecution.
 - A. Name and address of the Genetic Counselling Centre*/Genetic Laboratory*/Genetic Clinic*/ Ultrasound Clinic*/Imaging Centre*.
 - B. Pre-natal diagnostic procedures* approved for (Genetic Clinic)

Non-Invasive

 - (i) Ultrasound

Invasive

 - (ii) Amniocentesis
 - (iii) Chorionic villi biopsy
 - (iv) Foetoscopy
 - (v) Foetal skin or organ biopsy
 - (vi) Cordocentesis
 - (vii) Any other (specify)
 - C. Pre-natal diagnostic tests* approved (for Genetic Laboratory)
 - (i) Chromosomal studies
 - (ii) Biochemical studies
 - (iii) Molecular studies
 - D. Any other purpose (please specify for ultrasound clinic/imaging centre)
 3. Model and make of equipment being used (any change is to be intimated to the Appropriate Authority under rule 13).
 4. Registration No. allotted.
 5. Period of validity of earlier Certificate or Registration.
- (For renewed Certificate of Registration only)

From To

Signature, name and designation
of The Appropriate Authority

SEAL

Date :

Display one copy of this certificate at a conspicuous place at the place of business

FORM C

[See Rules 6(3), 6(5) and 8(3)]

**FORM FOR REJECTION OF APPLICATION FOR
GRANT/RENEWAL OF REGISTRATION**

In exercise of the powers conferred under Section 19(2) of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, the Appropriate Authority Hereby rejects the application for grant*/renewal* of registration of the Genetic Counselling Centre*/Genetic Laboratory*/Genetic Clinic*/Ultrasound Clinic*/Imaging Centre*.

- (1) Name and address of the Genetic Counselling Centre*/Genetic Laboratory*/Genetic Clinic*
Ultrasound Clinic*/Imaging Centre*
- (2) Reasons for rejection of application for grant/renewal of registration :

Signature, name and designation of
The Appropriate Authority
with SEAL of office

Date :

Place:

- Strike out whichever is not applicable or necessary.

FORM FOR MAINTENANCE OF RECORDS BY THE GENETIC COUNSELLING CENTRE

1. Name, Address of Genetic Counselling Centre
2. REGISTRATION No.
3. Patient's name
4. Age
5. Husband's/Father's name
6. Full address with Tel. No., if any
7. Referred by [Full name and address of Doctor(s) with registration No.(s)]
(Referral note to be preserved carefully with case papers)
8. Last menstrual period/weeks of pregnancy
9. History of genetic/medical disease in the family
(specify)
Basis of diagnosis:
 - (a) Clinical
 - (b) Bio-chemical
 - (c) Cytogenetic
 - (d) Other (e.g. radiological, ultrasonography)
10. Indication for pre-natal diagnosis
 - A. Previous child/children with
 - (i) Chromosomal disorders
 - (ii) Metabolic disorders
 - (iii) Congenital anomaly
 - (iv) Mental retardation
 - (v) Haemoglobinopathy
 - (vi) Sex-linked disorders
 - (vii) Single gene disorder
 - (viii) Any other (specify)
 - B. Advanced maternal age (35 years)
 - C. Mother/father/sibling having genetic disease (specify)
 - D. Others (specify)

11. Procedure advised
 - (i) Ultrasound
 - (ii) Amniocentesis
 - (iii) Chorionic villi biopsy
 - (iv) Foetoscopy
 - (v) Foetal skin or organ biopsy
 - (vi) Cordocentesis
 - (vii) Any other (specify)
12. Laboratory tests to be carried out
 - (i) Chromosomal studies
 - (ii) Biochemical studies
 - (iii) Molecular studies
 - (iv) Preimplantation gender diagnosis
13. Result of pre-natal diagnosis

If abnormal give details.	Normal/Abnormal
---------------------------	-----------------
14. Was MTP advised?
15. Name and address of Genetic Clinic* to which patient is referred.
16. Dates of commencement and completion of genetic counselling.

Place :
Date :

Name, Signature and Registration No. of the
Medical Geneticist/ Gynaecologist/
Paediatrician administering Genetic
Counselling

² Strike out whichever is not applicable or necessary.

FORM E
[See Rules 9(3)]

FORM FOR MAINTENANCE OF RECORDS BY GENETIC LABORATORY

1. Name and address of genetic laboratory
 2. Registration No.
 3. Patient's name
 4. Age
 5. Husband's/Father's name
 6. Full address with Tel. No., if any
 7. Referred by/sample sent by (full name and address of Genetic Clinic) (Referral note to be preserved carefully with case papers)
 8. Type of sample: Maternal blood/Chorionic villus sample/amniotic fluid/Foetal blood or other foetal tissue (specify)
 9. Specify indication for pre-natal diagnosis
 - A. Previous child/children with
 - (i) Chromosomal disorders
 - (ii) Metabolic disorders
 - (iii) Malformation(s)
 - (iv) Mental retardation
 - (v) Hereditary haemolytic anaemia
 - (vi) Sex-linked disorder
 - (vii) Single gene disorder
 - (viii) Any other (specify)
 - B. Advanced maternal age (35 years or above)
 - C. Mother/father/sibling has genetic disease (specify)
 - D. Other (specify)
 10. Laboratory tests carried out (give details)
 - (i) Chromosomal studies
 - (ii) Biochemical studies
 - (iii) Molecular studies
 - (iv) Preimplantation gender diagnosis
 11. Result of diagnosis

If abnormal give details. Normal/Abnormal
 12. Date(s) on which tests carried out.
- The results of the Pre-natal diagnostic tests were conveyed to on

Place :
Date :

Name, Signature and Registration No. of the
Medical Geneticist/Director of the Institute

FORM F

[See Proviso to section 4(3), Rule 9(4) and Rule 10(1A)]

**FORM FOR MAINTENANCE OF RECORDS IN CASE OF A PREGNANT WOMAN BY
GENETIC CLINIC/ULTRASOUND CLINIC/IMAGING CENTRE**

1. Name and address of Genetic Clinic*/Ultrasound Clinic*/Imaging Centre*
2. Registration No.
3. Patient's name and her age
4. Number of children which sex of each child
5. Husband's/Father's name
6. Full address with Tel. No., if any
7. Referred by (full name and address of Doctor(s)/
Genetic Counselling Centre (Referral note to be preserved
carefully with case papers)/self referral
8. Last menstrual period/weeks of pregnancy
9. History of genetic/medical disease in the family
(specify)
Basis of diagnosis:
 - (a) Clinical
 - (b) Bio-chemical
 - (c) Cytogenetic
 - (d) Other (e.g. radiological, ultrasonography etc. - specify)
10. Indication for pre-natal diagnosis
 - A. Previous child/children with :
 - (i) Chromosomal disorders
 - (ii) Metabolic disorders
 - (iii) Congenital anomaly
 - (iv) Mental retardation
 - (v) Haemoglobinopathy
 - (vi) Sex-linked disorders
 - (vii) Single gene disorder
 - (viii) Any other (specify)
 - B. Advanced maternal age (35 years)
 - C. Mother/father/sibling has genetic disease (specify)
 - D. Other (specify)
11. Procedures carried out (with name and registration No. of
Gynaecologist/Radiologist/Registered Medical Practitioner)
who performed it.

Non-Invasive

- (i) Ultrasound (specify purpose for which ultrasound is done during pregnancy)
[List of indications for ultrasonography or Pregnant women are given in the note below]

Invasive

- (ii) Amniocentesis
(iii) Chorionic Villi aspiration
(iv) Foetal biopsy
(v) Cordocentesis
(vi) Any other (specify)

12. Any complication of procedure – please specify

13. Laboratory tests recommended

- (i) Chromosomal studies
(ii) Biochemical studies
(iii) Molecular studies
(iv) Pre-implantation gender diagnosis

14. Result of

(a) Pre-natal diagnostic procedure

(give details)

(b) Ultrasonography

(specify abnormality detected, if any)

Normal / Abnormal

15. Date(s) on which procedures carried out.

16. Date on which consent obtained (In case of invasive)

17. The result of pre-natal diagnostic procedure were conveyed to on

18. What MTP advise / conducted?

19. Date on which MTP carried out

Name, Signature and Registration number of the
Gynaecologist/Radiologist/Director of the Clinic

Date :

Place:

DECLARATION OF PREGNANT WOMAN

I, Ms. (name of the pregnant woman) declare that by undergoing ultrasonography/image scanning etc. I do not want to know the sex of my foetus.

Signature/Thumb impression of pregnant woman

3. Strike out whichever is not applicable or not necessary.

DECLARATION OF DOCTOR/PERSON CONDUCTING ULTRASONOGRAPHY/IMAGE SCANNING

I, (name of the person conducting ultrasonography/image scanning) declare that while conducting ultrasonography/image scanning on Ms. (name of the pregnant woman). I have neither detected nor disclosed the sex of her foetus to anybody in any manner.

Name and signature of the person conducting ultrasonography/image scanning/Director or owner of genetic clinic/ultrasound clinic/imaging centre.

Important Note:

- i. Ultrasound is not indicated/advised/performed to determine the sex of foetus except for diagnosis of sex-linked diseases such as Duchenne Muscular Dystrophy, Haemophilia A & B etc.
- ii. During pregnancy Ultrasonography should only be performed when indicated. The following is the representative list of indications for ultrasound during pregnancy.
 1. To diagnose intra-uterine and/or ectopic pregnancy and confirm viability.
 2. Estimation of gestational age (dating).
 3. Detection of number of foetuses and their chorionicity.
 4. Suspected pregnancy with IUCD in-situ or suspected pregnancy following contraceptive failure/MTP failure.
 5. Vaginal bleeding/leaking
 6. Follow-up of cases of abortion.
 7. Assessment of cervical canal and diameter of internal os.
 8. Discrepancy between uterine size and period of amenorrhoea.
 9. Any suspected adnexal or uterine pathology/abnormality.
 10. Detection of chromosomal abnormalities, foetal structural defects and other abnormalities and their follow-up.
 11. To evaluate foetal presentation and position.
 12. Assessment of liquor amnii.
 13. Pre-term labour/pre-term premature rupture of membranes.
 14. Evaluation of placental position, thickness, grading and abnormalities (placenta praevia, retroplacental haemorrhage, abnormal adherence etc.)

15. Evaluation of umbilical cord – presentation, insertion, nuchal encirclement, number of vessels and presence of true knot.
16. Evaluation of previous Caesarean Section scars.
17. Evaluation of foetal growth parameters, foetal weight and foetal well being.
18. Colour flow mapping and duplex Doppler studies.
19. Ultrasound guided procedures such as medical termination of pregnancy, external cephalic version etc. and their follow-up.
20. Adjunct to diagnostic and therapeutic invasive interventions such as chorionic villus sampling (CVS), amniocenteses, foetal blood sampling, foetal skin biopsy, amnio-infusion, intrauterine infusion, placement of shunts etc.
21. Observation of intra-partum events.
22. Medical/surgical conditions complicating pregnancy.
23. Research/scientific studies in recognized institutions.

Person conducting ultrasonography on a pregnant woman shall keep complete record thereof in the clinic/center in Form-F and any deficiency found therein shall amount to contravention of provisions of section 5 or section 6 of the Act, unless contrary is proved by the person conducting such ultrasonography.

FORM G

[See Rule 10]

FORM OF CONSENT

(For invasive techniques)

I, wife/daughter of
 age years residing at
 hereby state that I have
 been explained fully the probable side effects and after effects of the pre-natal diagnostic procedures.

I wish to undergo the preimplantation/pre-natal diagnostic technique/test/procedures in my own interest to find out the possibility of any abnormality (i.e. disease/deformity/disorder) in the child I am carrying.

I undertake not to terminate the pregnancy if the pre-natal procedure/technique/test conducted show the absence of disease/deformity/disorder.

I understand that the sex of the foetus will not be disclosed to me.

I understand that breach of this undertaking will make me liable to penalty as prescribed in the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994) and rules framed thereunder.

Date:

Place:

Signature of the pregnant woman

I have explained the contents of the above to the patient and her companion (Name
 Address
 Relationship
) in a language she/they understand.

Name, Signature and/Registration
 number of Gynaecologist/Medical
 Geneticist/ Radiologist/ Paediatrician
 Director of the Clinic / Centre / Laboratory

Date

Name, Address and Registration
 number of Genetic Clinic/Institute

SEAL

FORM H

[See Rule 9(5)]

FORM FOR MAINTENANCE OF PERMANENT RECORD OF APPLICATIONS FOR GRANT/REJECTION OF REGISTRATION UNDER THE PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) ACT, 1994

1. Sl. No.
2. File number of Appropriate Authority
3. Date of receipt of application for grant of registration
4. Name, Address, Phone/Fax etc. of Applicant
5. Name and address(es) of Genetic Counselling Centre*/Genetic Laboratory*/Genetic Clinic*/Ultrasound Clinic*/Imaging Centre*
6. Date on which case considered by Advisory Committee and recommendation of Advisory Committee, in summary.
7. Outcome of application (state granted/rejected and date of issue of orders – record date of issue of order in Form B or Form C)
8. Registration number allotted and date of expiry of registration.
9. Renewals (date of renewal and renewed up to)
10. File number in which renewals dealt.
11. Additional information, if any.

Name, Designation and Signature of
Appropriate Authority

Guidance for Appropriate Authority

- (a) Form H is a permanent record to be maintained as a register, in the custody of the Appropriate Authority.
- (b) *Means strike out whichever is not applicable.
- (c) On renewal, the Registration Number of the Genetic Counselling Centre/Genetic Laboratory/Genetic Clinic/Ultrasound Clinic/Imaging Centre will not change. A fresh registration Number will be allotted in the event of change of ownership or management.
- (d) Registration number shall not be allotted twice.
- (e) Each Genetic Counselling Centre/Genetic Laboratory/Genetic clinic/Ultrasound Clinic/Imaging Centre may be allotted a folio consisting of two pages of the Register for recording Form H.
- (f) The space provided for 'additional information' may be used for recording suspension, cancellations, rejection of application for renewal, change of ownership/management, outcome of any legal proceedings, etc.
- (g) Every folio (i.e. 2 pages) of the Register shall be authenticated by signature of the Appropriate Authority with date, and every subsequent entry shall also be similarly authenticated.

APPENDIX - III

THE PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) (ADVISORY COMMITTEE) RULES, 1996

G.S.R. 540 (E), dated 26th November, 1996 - In exercise of the powers conferred by Sec. 32 of the Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994), the Central Government hereby makes the following rules, namely :-

1. Short title and commencement -

1. These rules may be called the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) (Advisory Committees) Rules, 1996.
2. They shall come into force on the date of their publication in the Official Gazette.

2. Definitions - In these rules, unless the context otherwise requires :-

- (a) "Act" means the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994);
- (b) "Advisory Committee" means an Advisory Committee constituted under sub-section (5) of Section 17 of the Act;
- (c) "Chairman" means the Chairman of the Advisory Committee appointed under sub-section (5) of Section 17;
- (d) "Principle rules" means the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Rules, 1996;
- (e) "section" means a section of the Act;
- (f) "words and expressions" used herein and not defined in these rules but defined in the Act or in the principal rules, as the case may be, shall have the meanings, respectively, assigned to them in the Act or in the principle rules.

3. Terms and conditions of appointment as a member of an Advisory Committee -

- (1) No person shall be appointed as a member of an Advisory Committee if he -
 - (a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government or the State Government, as the case may be, involves moral turpitude; or
 - (b) is an undischarged insolvent; or
 - (c) is of unsound mind and stands so declared by a competent court; or
 - (d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or
 - (e) has, in the opinion of the Central Government or the State Government, as the case may be, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Advisory Committee; or
 - (f) has, in the opinion of the Central Government or the State Government, as the case may be, been associated with the sue or promotion of prenatal diagnostic techniques for determination of sex.

2. Every member of an Advisory Committee shall be a resident of the State or Union Territory, for which the Advisory Committee to which he is appointed as a member, has been constituted.
3. A member of an Advisory Committee shall hold office during the pleasure of the Central Government or the State Government, as the case may be.
4. Subject to the provisions of sub-rule (3), every such member shall hold office for a period not exceeding three years;

Provided that any person holding office as a member of an Advisory Committee immediately before the commencement of these rules shall hold such office only for the term of three years from the date of his appointment.

5. A retiring member or a member whose term of office has expired by efflux of time shall be eligible for re-appointment.
6. A casual vacancy in an Advisory Committee caused by the resignation, death, transfer or removal of any member or otherwise shall be filled by fresh appointment and the person so appointed shall hold office for a period not exceeding the term of office of the member in whose place he is appointed.
7. The Central Government or the State Government, as the case may be, may remove from office any member of an Advisory committee before the expiration of his term of office.
8. Every member of an Advisory Committee shall be entitled to draw traveling and daily allowances for journeys performed by him for attending the meetings (including a meeting adjourned for want of quorum), of the Advisory Committee or for the purpose of discharging any other duties prescribed under the Act, or under the Principle rules or under these rules, on the scale admissible to First Grade Officers of the Government of the State or of the Union Territory, as the case may be.

4. **Meetings of the Advisory Committees** - The intervening period between any two meetings of an Advisory Committee shall not exceed sixty days.

5. **Notice of meetings** -

1. At least seven clear days notice of all meetings of the Advisory Committee shall be given to each member, but an urgent meeting may be called by the Chairman at three clear days' notice;

Provided that if the Chairman is not available, and a meeting is required to be held within the time limit prescribed in Rule 4, the Appropriate Authority may call a meeting with seven clear days' notice after consultation with not less than four of the members of the Advisory Committee.

2. The notice shall state the business to be transacted at the meeting and no business other than that stated shall be transacted at such meeting except with the consent of the Chairman or on his motion.

6. **Business ordinarily to be transacted at meetings** - The business of the Advisory Committee shall ordinarily be transacted at a meeting duly called in accordance with the provisions of these rules;

Provided that the Chairman may, if he thinks fit, circulate any urgent matter among the members of the Advisory Committee for their opinion.

7. **Quorum** - At every meeting of the Advisory Committee, four members shall form a quorum.
8. **Chairman of the meeting** - Meetings of the Advisory Committee shall be presided over by the Chairman or in his absence, or if no Chairman has been appointed, by a member elected by the members present from among themselves.
9. **Assistance to be rendered by the Appropriate Authority to the Advisory Committee** -
 1. Every meeting of the Advisory Committee shall be attended by the Appropriate Authority concerned.
 2. All secretarial and other assistance to the Advisory Committee for the discharge of its functions shall be provided by the Appropriate Authority.
 3. The Appropriate Authority shall issue the notice of meeting, agenda, notes on agenda and the minutes of the meeting, in consultation with the Chairman, subject to the provisions of Rules 5, 6, 7 and 12.
10. **Decisions on questions before the Advisory Committee :-**
 1. The advice tendered by the Advisory Committee shall be adopted, and in the event of any difference of opinion amongst the members, the matter shall be put to vote and decided by a simple majority of the members present.
 2. The Appropriate Authority shall not have a right to vote.
 3. In the event of tie in votes, the Chairman or in his absence, the member presiding shall have a second or casting vote.
 4. The fact of any question having been decided by the process of voting instead of by adoption, shall be recorded in the minutes of that meeting of the Advisory Committee.
11. **Vacancies etc. not to invalidate proceedings of the Advisory Committee** - No meeting or proceeding of the Advisory Committee shall be invalid merely by reason of -
 - (a) any vacancy in, or any defect in the constitution of the Advisory Committee; or
 - (b) any defect in the appointment of a person to be a member of the Advisory Committee; or
 - (c) any irregularity in the procedure adopted by the Advisory Committee not affecting the merits of the case.
12. **Record of proceedings of the Advisory Committee** - One set of the agenda, notes on agenda, supporting documents and minutes of every meeting of the Advisory Committee shall be authenticated by the signature of the Chairman or in his absence by the signature of the member presiding, and preserved by the Appropriate Authority as permanent records.



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II - खण्ड 3 - उप-खण्ड (i)
PART II - Section 3 - Sub-section (i)
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं 254]
No.254]

नई दिल्ली, मंगलवार, जून 5, 2012 / ज्येष्ठ 15, 1934
NEW DELHI, TUESDAY, JUNE 5, 2012/JYAISTHA 15, 1934

स्वास्थ्य और परिवार कल्याण मंत्रालय
(स्वास्थ्य और परिवार कल्याण विभाग)

अधिसूचना

नई दिल्ली, 4 जून, 2012

सा.का.नि. 418(अ) — केन्द्रीय सरकार गर्भधारण पूर्व और प्रसव पूर्व निदान तकनीक (लिंग चयन प्रतिषेध) अधिनियम, 1994 (1994 का 57) की धारा 32 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा गर्भधारण पूर्व और प्रसव पूर्व निदान तकनीक (लिंग चयन प्रतिषेध) नियमावली, 1996 में निम्नलिखित और संशोधन करती है, अर्थात्

1. (1) ये नियम गर्भधारण पूर्व और प्रसव पूर्व निदान तकनीक (लिंग चयन प्रतिषेध) संशोधित नियमावली, 2012 के नाम से अभिप्रेत होंगे।
(2) ये नियम सरकारी राजपत्र में प्रकाशित होने की तारीख से प्रभावी होंगे।
2. गर्भधारण पूर्व और प्रसवपूर्व निदान तकनीक (लिंग चयन प्रतिषेध) नियम 1996 (इसके बाद कथित नियम के रूप में संदर्भित होगा) में नियम 3 के बाद नियम 3 क के पूर्व निम्नलिखित प्रतिस्थापित किए जायेंगे जैसे :-
(3) “अधिनियम के तहत किसी आनुवंशिक क्लीनिक/अल्ट्रासाउंड क्लीनिक/इमेजिंग केन्द्र में अल्ट्रासोनोग्राफी करने के पात्र प्रत्येक चिकित्सा व्यावसायी को जिले के अन्दर अधिकतम दो ऐसे क्लीनिक/केन्द्री में ही पंजीकृत करने की अनुमति प्रदान की जायेगी। प्रत्येक क्लीनिक/केन्द्र के द्वारा इन चिकित्सा व्यावसायियों के परामर्श घटे स्पेट रूप से निर्दिष्ट किए जाटेंगे।”
3. उपयुक्त नियमों के अधीन नियम 5 के उप नियम (1) में निम्नलिखित उप नियम शामिल हैं:

(क) मद संख्या (क) में शब्द एवं अंकों में 3,000.00 रूपये शब्द के स्थान पर पच्चीस हजार रूपये होंगे।

(ख) मद संख्या (ख) में शब्द एवं अंकों में 4,000.00 रू. शब्द के स्थान पर “पैंतीस हजार रूपये” होंगे।

4. उक्त नियमावली के नियम 13 में “ऐसे परिवर्तन के तीस दिनों के अन्दर” के स्थान पर “ऐसे परिवर्तन की संभावित तारीख से कम से कम तीस दिन पूर्व और समुचित प्राधिकारी से पंजीयन प्रमाणपत्र के पुनः जारी करने का अनुरोध जिसमें परिवर्तन का विधिवत समावेश हो गा”।

(फा. सं. 24024/60/2008-पीएनडीटी)

मनोज झलानी, संयुक्त सचिव

विषय : मूल अधिसूचना जी.एस.आर. 1(ई) दिनांक 1 जनवरी, 1996 द्वारा भारत के राजपत्र में प्रकाशित हुआ था और बाद में अधिसूचना सं. जीएसआर 109 (ई.) दिनांक 14.2.2013, जीएसआर 426(ई.) दिनांक 31.5.2011, जीएसआर 80(ई.) दिनांक 9.2.2012 द्वारा संशोधित किया गया।

**MINISTRY OF HEALTH AND FAMILY WELFARE
(Department of Health and Family Welfare)**

NOTIFICATION

New Delhi, the 4th June, 2012

G.S.R. 418(E) – In exercise the powers conferred by section 32 of the Pre-conception and Pre-natal diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (57 of 1994), the Central Government hereby makes the following further amendments to the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 namely :-

1. (1) These rules may be called the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2012.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 (hereinafter referred to as the said rules), after rule 3, the following shall be inserted, before rule 3A, namely :-

“(3) Each medical practitioner qualified under the Act to conduct ultrasonography in a genetic clinic/ultrasound clinic/imaging centre shall be permitted to be registered with a maximum of two such clinics/centres within a district. The consulting hours for such medical practitioner, shall be clearly specified by each clinic/centre.”
3. In the said rules, in rule 5 in sub-rule (1), the following sub-rule -
 - (a) In item (a) for the letters and figure “Rs.3,000.00”, the words “rupees twenty five thousand” shall be substituted.
 - (b) In item (b) for the letters and figure “Rs.4,000.00”, the words “rupees thirty five thousand” shall be substituted.

4. In the said rules, in rule 13, for the words “within a period of thirty days of such change”, the words “atleast thirty days in advance of the expected date of such change, and seek re-issuance of certificate of registration from the Appropriate Authority, with the changes duly incorporated” shall be substituted.

[F. No. 24026/60/2008-PNDT]
MANOJ JAHALANI, Jt. Secy.

Note : The principal notification was published in the Gazette of India vide G.S.R. 1(E), dated the 1st January, 1996 and subsequently amended, vide notification numbers, G.S.R. 109 (E), dated the 14th February, 2003; G.S.R. 426(E), dated the 31st May, 2011; G.S.R. 80 (E), dated the 9th February 2012.

8. Legal Services Authority

8.1 The Legal Service Authorities Act, 1987

8.2 The Orissa State Legal Services Authority Regulation, 1996

THE LEGAL SERVICES AUTHORITIES ACT, 1987

(39 of 1987)

as amended by

The Legal Services Authorities (Amendment) Act, 1994

(59 of 1994)

and

The Legal Services Authorities (Amendment) Act, 2002

(37 of 2002)

An Act to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organize Lok Adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity.

Be it enacted by Parliament in the thirty-eight year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement -

- (1) This Act may be called the Legal Services Authorities Act, 1987.
- (2) It extend to the whole of India, except the State of Jammu and Kashmir.
- (3) It shall come into force on such dates¹ as the Central Government may, by notification appoint; and different dates may be appointed for different provisions of this Act and for different States, and any reference to commencement in any provision of this Act in relation to any State shall be construed as a reference to the commencement of that provision in that State.

2. Definitions -

- (1) In this Act, unless the context otherwise requires -
 - ²[(a) "case" includes a suit or any proceeding before a court;
 - (aa) "Central Authority" means the National Legal Services Authority constituted under Section 3;
 - (aaa) "court" means a civil, criminal or revenue court and includes any tribunal or any other authority constituted under any law for the time being in force, to exercise judicial or quasi-judicial functions;]
 - (b) "District Authority" means a District Legal Services Authority constituted under Section 9;
 - ¹[(bb) "High Court Legal Services Committee" means a High Court Legal Services Committee constituted under Section 8A;]
 - (a) "legal service" includes the rendering of any service in the conduct of any case or other legal proceeding before any court or other authority or tribunal and the giving of advice on any legal matter;

1. Whole Act except Chapter III came into force on 9.11.1995, vide S.O. 893(E) dated 9th November, 1995.

2. Subs. by Act 59 of 1994 Sec. 2, for clause (a) (w.e.f. 29.10.1994).

3. Ins. by Act 59 of 1994, Sec. 2 (w.e.f. 29.10.1994)

- (b) "Lok Adalat" means a Lok Adalat organized under Chapter VI;
- (c) "notification" means a notification published in the Official Gazette;
- (d) "prescribed" means prescribed by rules made under this Act;
- ²(ff) "regulations" means regulations made under this Act;
- (e) "scheme" means any scheme framed by the Central Authority, a State Authority or a District Authority for the purpose of giving effect to any of the provisions of this Act;
- (f) "State Authority" means a State Legal Services Authority constituted under Section 6;
- (g) "State Government" includes the administrator of a Union territory appointed by the President under article 239 of the Constitution;
- (h) "Supreme Court Legal Services Committee" means the Supreme Court Legal Services Committee constituted under Section 3A;
- (i) "Taluk Legal Services Committee" means a Taluk Legal Services Committee constituted under Section 11A.
- (2) Any reference in this Act to any other enactment or any provision thereof shall, in relation to an area in which such enactment or provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

CHAPTER II

THE NATIONAL LEGAL SERVICES AUTHORITY

²3. Constitution of the National Legal Services Authority -

- (1) The Central Government shall constitute a body to be called the National Legal Services Authority to exercise the powers and perform the functions conferred on, or assigned to, the Central Authority under this Act.
- (2) The Central Authority shall consist of -
- (a) the Chief Justice of India who shall be the Patron-in-Chief;
 - (b) a serving or retired Judge of the Supreme Court to be nominated by the President, in consultation with the Chief Justice of India, who shall be the Executive Chairman; and
 - (c) such number of other members, possessing such experience and qualifications, as may be prescribed by the Central Government, to be nominated by that Government in consultation with the Chief Justice of India.
- (3) The Central Government shall, in consultation with the Chief Justice of India, appoint a person to be the Member Secretary of the Central Authority, possessing such experience and qualification as may be prescribed by that Government, to exercise such powers and perform such duties under the Executive Chairman of the Central Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority.
- (4) The terms of office and other conditions relating thereto, of members and the Member Secretary of the Central Authority shall be such as may be prescribed by the Central Government in consultation with the Chief Justice of India.

1. Ins. by Act 59 of 1994, sec. 2 (w.e.f. 29.10.1994)
 2. Ins. by Act 59 of 1994, sec.2 (w.e.f. 29.10.1994)
 3. Ins. by Act 59 of 1994, sec.3 (w.e.f. 29.10.1994)

- (5) The Central Authority may appoint such number of officers and other employees as may be prescribed by the Central Government, in consultation with the Chief Justice of India, for the efficient discharge of its functions under this Act.
- (6) The Officers and other employees of the Central Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the Central Government in consultation with the Chief Justice of India.]
- (7) The administrative expenses of the Central Authority, including the salaries, allowances and pensions payable to the Member-Secretary, officers and other employees of the Central Authority, shall be defrayed out of the Consolidated Fund of India.
- (8) All orders and decisions of the Central Authority shall be, authenticated by the Member-Secretary or any other officer of the Central Authority duly authorized by the Executive Chairman of that Authority.
- (9) No act or proceeding of the Central Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Central Authority.

3A. Supreme Court Legal Services Committee -

- (1) The Central Authority shall constitute a committee to be called the Supreme Court Legal Services Committee for the purpose of exercising such powers and performing such functions as may be determined by regulations made by the Central Authority.
- (2) The Committee shall consist of -
 - (a) a sitting Judge of the Supreme Court who shall be the Chairman; and
 - (b) such number of other members possessing such experience and qualifications as may be prescribed by the Central Government,
- (3) The Chief Justice of India shall appoint a person to be the Secretary to the Committee, possessing such experience and qualifications as may be prescribed by the Central Government.
- (4) The terms of office and other conditions relating thereto, of the members and Secretary of the Committee shall be such as may be determined by regulations made by the Central Authority.
- (5) The Committee may appoint such number of officers and other employees as may be prescribed by the Central Government, in consultation with the Chief Justice of India, for the efficient discharge of its functions.
- (6) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the Central Government in consultation with the Chief Justice of India.

4. Functions of the Central Authority - The Central Authority shall ¹[***] perform all or any of the following functions, namely: -

- (a) lay down policies and principles for making legal services available under the provisions of the Act;
- (b) frame the most effective and economical schemes for the purpose of making legal services available under the provisions of this Act;
- (c) utilize the funds at its disposal and make appropriate allocations of funds to the State Authorities and District Authorities;
- (d) take necessary steps by way of social justice litigation with regard to consumer protection, environmental protection or any other matter of special concern to the weaker sections of the society and for this purpose, give training to social workers in legal skills;

1. The words "subject to the general directions of the Central Government" omitted by Act 59 of 1994 sec. 4, (w.e.f. 29.10.1994).

- (e) organize legal aid camps, especially in rural area, slums or labour colonies with the dual propose of educating the weaker sections of the society as to their rights as well as encouraging the settlement of disputes through Lok Adalats.
 - (f) encourage the settlement of disputes by way of negotiations, arbitration and conciliation;
 - (f) undertake and promote research in the field of legal services with special reference to the need for such services among the poor;
 - (h) to do all things necessary for the purpose of ensuring commitment to the fundamental duties of citizens under Part IV A of the Constitution;
 - (i) monitor and evaluate impementation of the legal aid programmes at periodic inteervals and provide for independent evaluation of programmes and schemes implemented in whole or in part by funds provided under this Act;
 - ¹[(j) provide grants-in-aid for specific schemes to various voluntary social service institutions and the State and District Authorities, from out of the amounts placed at its disposal for the implementation of legal services schemes under the provisions of this Act;]
 - (k) develop, in consultation with the Bar Council of India, programmes for clinical legal education and promote guidance and supervise the establishment and working of legal services clinics in universities, law colleges and other institutions;
 - (l) take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures;
 - (m) make special efforts to enlist the support of voluntary social welfare institutions working at the grass-root level, particularly among the Scheduled Castes and the Scheduled Tribes, women and rural and urban labour; and
 - (n) coordinate and monitor the fnctioning of ²[State Authorities, District Authorities, Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees and voluntary sogial services institutions and other legal services organizations and give general directions for the proper implementation of the legal services programmes.
5. **Central Authority to work in Coordination with other agencies** - In the discharge of its functions under this Act, the Central Authority shall, wherever appropriate, act in coordination with other governmental and non-governmental agencies, universities and others engaged in the work of promoting the cause of legal services to the poor.

CHAPTER III

STATE LEGAL SERVICES AUTHORITY

³6. Constitution of State Legal Services Authority -

- (1) Every State Government shall constitute abody to be called the Legal Services Authority for the State to exercise the powers and perform the functions conferred on, or assigned to, a State Authority under this Act.
- (2) A State Authority shall consist of -

1. Subs. by Act 59 of 1994 sec. 4, for clause (j) (w.e.f. 29 .10.1994)

2. Subs by Act 59 of 1994, sec. 4 for "State and District Authoritiwes and other voluntary social welfare institution" (w.e.f. 29.10.1994).

3. Subs. by Act 59 of 1994, sec. 5, for section 6 (w.e.f. 29.10.1994).

- (a) the Chief Justice of the High Court who shall be the Patron-in-Chief;
 - (b) a serving or retired Judge of the High Court to be nominated by the Governor, in consultation with the Chief Justice of the High Court, who shall be the Executive Chairman; and
 - (c) such number of other members, possessing such experience and qualifications as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.
- (3) The State Government shall, in consultation with the Chief Justice of the High Court, appoint a person belonging to the State Higher Judicial Service, not lower in rank than that of a District Judge, as the Member Secretary of the State Authority, to exercise such powers and perform such duties under the Executive Chairman of the State Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority;

Provided that a person functioning as Secretary of a State Legal Aid and Advice Board immediately before the date of constitution of the State Authority may be appointed as Member-Secretary of that Authority, even if he is not qualified to be appointed as such under this sub-section, for a period not exceeding five years.

- (4) The terms of office and other conditions relating thereto, of members and the Member-Secretary of the State Authority shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.
- (5) The State Authority may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court, for the efficient discharge of its functions under this Act.
- (6) The officers and other employees of the State Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.
- (7) The administrative expenses of the State Authority, including the salaries, allowances and pensions payable to the Member-Secretary officers and other employees of the State Authority shall be defrayed out of the consolidated fund of the State.
- (8) All orders and decisions of the State Authority shall be authenticated by the Member Secretary or any other officer of the State Authority duly authorized by the Executive Chairman of the State Authority.
- (9) No act or proceeding of a State Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the State Authority.

7. Functions of the State Authority -

- (1) It shall be the duty of the State Authority to give effect to the policy and directions of the Central Authority.
- (2) Without prejudice to the generality of the functions referred to in sub-section (1), the State Authority shall perform all or any of the following functions, namely:-
 - (a) give legal service to persons who satisfy the criteria laid down under this Act;
 - (b) conduct ¹[Lok Adalats, including Lok Adalats for High Court cases];
 - (c) undertake preventive and strategic legal aid programmes; and
 - (d) perform such other functions as the State Authority may, in consultation with the ²[Central Authority,] fix by regulations.

1. Subs. by Act 59 of 1994, sec. 6, for "Lok Adalats" (w.e.f. 29.10.1994).

2. Subs. by Act 59 of 1994, sec. 6, for "Central Government" (w.e.f. 29.10.1994).

³[8. **State Authority to act in coordination with other agencies, etc., and be subject to directions given by Central Authority-** In the discharge of its functions the State Authority shall appropriately act in coordination with other governmental agencies, non-governmental voluntary social service institutions, universities and other bodies engaged in the work of promoting the cause of legal services to the poor and shall also be guided by such directions as the Central Authority may give to it in writing.

8A. High Court Legal Services Committee -

- (1) The State Authority shall constitute a committee to be called the High Court Legal Services Committee for every High Court, for the purpose of exercising such powers and performing such functions as may be determined by regulations made by the State Authority.
- (2) The committee shall consist of -
 - (a) a sitting Judge of the High Court who shall be the Chairman; and
 - (b) such number of other members possessing such experience and qualifications as may be determined by regulations made by the State Authority, to be nominated by the Chief Justice of the High Court.
- (3) The Chief Justice of the High Court shall appoint a Secretary to the Committee possessing such experience and qualifications as may be prescribed by the State Government.
- (4) The terms of office and other conditions relating thereto, of the members and Secretary of the Committee shall be such as may be determined by regulations made by the State Authority.
- (5) The Committee may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.
- (6) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

¹[9. **District Legal Services Authorities -**

- (1) The State Government shall, in consultation with the Chief Justice of the High Court, constitute a body to be called the District Legal Services Authority for every District in the State to exercise the powers and perform the functions conferred on, or assigned to, the District Authority under this Act.
- (2) A District Authority shall consist of :-
 - (a) the District Judge who shall be its Chairman; and
 - (b) such number of other members, possessing such experience and qualifications, as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.
- (3) The State Authority shall, in consultation with the Chairman of the District Authority, appoint a person belonging to the State Judicial Service not lower in rank than that of a Subordinate Judge or Civil Judge posted at the seat of the District Judiciary as Secretary of the District Authority to exercise such powers and perform such duties under the Chairman of that Committee as may be assigned to him by such Chairman.
- (4) The terms of office and other conditions relating thereto, of members and Secretary of the District Authority shall be such as may be determined by regulations made by the State

1. Subs. by Act 59 of 1994, sec. 7, for section 8 (w.e.f. 29.10.1994).
 2. Subs. by Act 59 of 1994, sec. 7, for section 9 (w.e.f. 29.10.1994).

Authority in consultation with the Chief Justice of the High Court.

- (5) The District Authority may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.
- (6) The officers and other employees of the District Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.
- (7) The administrative expenses of every District Authority, including the salaries, allowances and pensions payable to the Secretary, officers and other employees of the District Authority shall be defrayed out of the Consolidated Fund of the State.
- (8) All orders and decisions of the District Authority shall be authenticated by the Secretary or by any other officer of the District Authority duly authorized by the Chairman of that Authority.
- (9) No act or proceeding of a District Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the District Authority.]

10. Functions of District Authority -

- (1) It shall be the duty of every District Authority to perform such of the functions of the State Authority in the District as may be delegated to it from time to time by the State Authority.
- (2) Without prejudice to the generality of the functions referred to in sub-section (1), the District Authority may perform all or any of the following functions, namely:-
 - ¹[(a) coordinate the activities of the Taluk Legal Services Committee and other legal services in the District;]
 - (b) organize Lok Adalats within the District; and
 - (c) perform such other functions as the State Authority may ²[***] fix by regulations.

11. District Authority to act in coordination with other agencies and be subject to directions given by the Central Authority, etc.-

In the discharge of its functions under this act, the District Authority shall, wherever appropriate, act in coordination with other governmental and non-governmental institutions, universities and others engaged in the work of promoting the cause of legal services to the poor and shall also be guided by such directions as the Central Authority or the State Authority may give to it in writing.

¹[11A. Taluk Legal Services Committee -

- (1) The State Authority may constitute a Committee, to be called the Taluk Legal Services Committee, for each taluk or mandal or for group of taluks or mandals.
- (2) The Committee shall consist of –
 - (a) the ⁴[Senior Most Judicial Officer] operating within the jurisdiction of the Committee who shall be the ex-officio Chairman; and
 - (b) such number of other members, possessing such experience and qualifications, as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.
- (3) The Committee may appoint such number of officers and other employees as may be

1. Subs. by Act 59 of 1994, sec. 8, for clause (a) (w.e.f. 29.10.1994).

2. The words "in consultations with the State Government", omitted by Act 59 of 1994, sec. 8 (w.e.f. 29.10.1994).

3. Ins. by Act 59 of 1994, sec. 9 (w.e.f. 29.10.1994).

4. Subs. by Act 37 of 2002, sec. 2, for "Senior Civil Judge" (w.e.f. 11.6.2002).

prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.

- (4) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with Chief Justice of the High Court,
- (5) The administrative expenses of the Committee shall be defrayed out of the District Legal Aid Fund by the District Authority.

11B. Functions of Taluk Legal Services Committee - The Taluk Legal Services Committee may perform all or any of the following functions, namely:—

- (a) coordinate the activities of legal
- (b) organize Lok Adalats within the taluk; and
- (c) perform such other functions as the District Authority may assign to it.]

CHAPTER IV

ENTITLEMENT TO LEGAL SERVICES

12. Criteria for giving legal services - Every person who has to file or defend a case shall be entitled to legal services under this Act if that person is—

- (a) a member of Scheduled Caste or Schedule Tribe;
- (b) a victim of trafficking in human beings or beggar as referred in article 23 of the Constitution;
- (c) a woman or a child;
- ¹[(d) a person with disability as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);]
- (e) a person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster or
- (f) an industrial workman; or
- (g) in custody, including custody in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956, or in a Juvenile home within the meaning of clause (j) of section 2 of the Juvenile Justice Act, 1986, or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of section 2 of the Mental Health Act, 1987; or

²[(h) in receipt of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the State Government, if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court.]

13. Entitlement to legal services -

- (1) Persons who satisfy or any of the criteria specified in section 12 shall be entitled to receive legal services provided that the concerned Authority is satisfied that such person has a prima-facie case to prosecute or to defend.
- (2) An affidavit made by a person as to his income may be regarded as sufficient for making him eligible to the entitlement of legal services under this Act unless the concerned Authority has reason to disbelieve such affidavit.

1. Subs. by Act 1 of 1996, sec. 74, for clause (d) (w.e.f. 7.2.1996).
2. Subs. by Act 59 of 1994, sec. 10, for clause (h) (w.e.f. 29.1.1994)

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

- 14. Grants by the Central Government -** The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Central Authority, by way of grants, such sums of money as the Central Government may think fit for being utilized for the purposes of this Act.
- 15. National Legal Aid Fund -**
- (1) The Central Authority shall establish a fund to be called the National Legal Aid fund and there shall be credited thereto-
 - (a) all sums of money given as grants by the Central Government under section 14;
 - (b) any grants or donations that may be made to the Central Authority by any other person for the purposes of this Act;
 - (c) any amount received by the Central Authority under the orders of any court or from any other source.
 - (2) The National Legal Aid Fund shall be applied for meeting -
 - (a) the cost of legal services provided under this Act including grants made to State Authorities;
 - ¹[(b) the cost of legal services provided by the Supreme Court Legal Services Committee;
 - (c) any other expenses which are required to be met by the Central Authority.]
- 16. State Legal Aid Fund -**
- (1) A State Authority shall establish a fund to be called the State Legal Aid Fund and there shall be credited thereto -
 - (a) all sums of money paid to it or an grants made by the Central Authority for the purposes of this Act;
 - (b) any grants or donations that may be made to the State Authority by the State Government or by an person for the purposes of this Act;
 - (c) any other amount received by the State Authority under the orders of any court or from any other source.
 - (2) A State Legal Aid fund shall be applied for meeting -
 - (a) the cost of functions referred to in section 7;
 - ¹[(b) the cost of legal services provide by the High Court Legal Services Committees;
 - (c) any other expenses which are quired to be met by the State Authority.]
- 17. District Legal Aid Fund -**
- (1) Every District Authority shall establish a fund to be called the District Legal Aid Fund and there shall be credited thereto-
 - (a) all sums of money paid or any grants made by the State Authority to the District Authority for the purposes of this Act;
 - ²[(b) any grants or donations that may be made to the District Authority by any person,

1. Subs. by Act 59 of 1994, sec. 11, for clause (b) (w.e.f. 29.10.1994)

2. Ins. by Act 59 of 1994, sec. 13, for clause (b) (w.e.f. 29.10.1994)

with the prior approval of the State Authority, for the purposes of this Act;

(c) any other amount received by the District Authority under the orders of any court or from any other source.]

(2) A District Legal Aid Fund shall be applied for meeting—

(a) the cost of functions referred to in section 103 ¹[and 11 B];

(b) any other expenses which are required to be met by the District Authority.

18. Accounts and Audit -

(1) The Central Authority, State Authority or the District Authority (hereinafter referred to in this section as 'the Authority'), as the case may be, shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the income and expenditure account and the balance-sheet in such form and in such manner as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India.

(2) The accounts of the Authorities shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority concerned to the Comptroller and Auditor General of India.

(3) The Comptroller and Auditor General of India and any other person appointed by him in connection with the auditing of the accounts of an Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor General of India has in connection with the auditing of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authorities under this Act.

(4) The accounts of the Authorities, as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually by the Authorities to the Central Government or the State Governments, as the case may be.

²[(5) The Central Government shall cause the accounts and the audit report received by it under sub-section (4) to be laid, as soon as may be after they are received, before each house of Parliament.

(6) The State Government shall cause the accounts and the audit report received by it under sub-section (4) to be laid, as soon as may be after they are received, before the State Legislature.]

CHAPTER VI

LOK ADALATS

²[19. Organization of Lok Adalats -

(1) Every State Authority or District Authority or the Supreme Court Legal Services Committee or every High Court Legal Services Committee or, as the case may be, Taluk Legal Services Committee may organize Lok Adalats at such intervals and places and for exercising such jurisdiction and for such areas as it thinks fit.

1. Ins. by Act 59 of 1994, sec. 14 (w.e.f. 29.10.1994).

2. Ins. by Act 59 of 1994, sec. 13. (w.e.f. 29.10.1994).

3. Subs. by Act 59 of 1994, sec. 15, for section 19 (w.e.f. 29.10.1994).

- (2) Every Lok Adalat organized for an area shall consist of such number of -
- (a) serving or retired judicial officers; and
 - (b) other persons.
- of the area as may be specified by the State Authority or the District Authority or the Supreme Court Legal Services Committee or the High Court Legal Services Committee or, as the case may be, the Taluk Legal Services Committee, organizing such Lok Adalat.
- (3) The experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats organized by the Supreme Court Legal Services Committee shall be such as may be prescribed by the Central Government in consultation with the Chief Justice of India.
- (4) The experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats other than referred to in sub-section (3) shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.
- (5) A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of -
- (i) any case pending before; or
 - (ii) any matter which is falling within the jurisdiction of, and is not brought before, any court for which the Lok Adalat is organized:
- Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.]

¹[20. Cognizance of cases by Lok Adalats -

- (1) Where in any case referred to in clause (i) of sub-section (5) of section 19 :
- (i) (a) the parties thereof agree; or
 - (b) one of the parties thereof makes an application to the court for referring the case to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such settlement; or
 - (ii) the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat,
- the court shall refer the case to the Lok Adalat :
- Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.
- (2) Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee organizing the Lok Adalat under sub-section (1) of section 19 may, on receipt of an application from any one of the parties to any matter referred to in clause (ii) of sub-section (5) of section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination:
- Provided that no matter shall be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party.
- (3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.

- (4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity fair play and other legal principles.
- (5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received under sub-section (1) for disposal in accordance with law.
- (6) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, in a matter referred to in sub-section (2), 'that Lok Adalat shall advice the parties to seek remedy in a court.
- (7) Where the record of the case is returned under sub-section (5) to the court, such court shall proceed to deal with such case from the stage which was reached before such reference under sub-section (1).]

21. Award of Lok Adalat -

- ¹[(1) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, an order of any other court and where a compromise or settlement has been arrived at by a Lok Adalat in a case referred to it under sub-section (1) of section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court-fees Act, 1870 (7 of 1870).]
- (2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award.

22. Powers of ²[Lok Adalat or Permanent Lok Adalat -

- (1) The ¹[Lok Adalat "or Permanent Lok Adalat"] shall, for the purposes of holding any determination under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, (5 of 1908) while trying a suit in respect of the following matters, namely:-
 - (a) the summoning and enforcing the attendance of any witness and examining him on oath;
 - (b) the discovery and production of any document;
 - (c) the reception of evidence on affidavits;
 - (d) the requisitioning of any public record or document or copy of such record or document from any court or office; and
 - (e) such other matters as may be prescribed.
- (2) Without prejudice to the generality of the powers contained in sub-section (1), every ³[Lok Adalat or Permanent Lok Adalat] shall have the requisite powers to specify its own procedure for the determination of any dispute coming before it.
- (3) All proceedings before a Lok Adalat "or Permanent Lok Adalat" shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code (45 of 1860) and every ²[Lok Adalat or Permanent Lok Adalat] shall be deemed to be a civil court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

¹ Subs. by Act 59 of 1994, sec. 16, for sub-section (1) (w.e.f. 29.10.1994).

² Subs. by Act 37 of 2002, sec. 3, for "Lok Adalat" (w.e.f. 11.6.2002).

³ Subs. by Act 37 of 2002, sec. 3, for "Lok Adalat" (w.e.f. 11.6.2002).

¹[CHAPTER VIA**PRE-LITIGATION CONCILIATION AND SETTLEMENT**

22A. Definitions - In this Chapter and for the purpose of sections 22 and 23, unless the context otherwise requires;-

- (a) "Permanent Lok Adalat" means a Permanent Lok Adalat established under sub-section (1) of section 22B;
- (b) "public utility service" means any -
 - (i) transport service for the carriage of passengers or goods by air, road or water; or
 - (ii) postal, telegraph or telephone service; or
 - (iii) supply of power, light or water to the public by any establishment; or
 - (iv) system of public conservancy or sanitation; or
 - (v) service in hospital or dispensary; or
 - (vi) insurance service.

and includes any service which the Central Government or the State Government, as the case may be, may, in the public interest, by notification, declare to be a public utility service for the purposes of this chapter.

22B. Establishment of Permanent Lok Adalats -

- (1) Notwithstanding anything contained in section 19, the Central Authority or, as the case may be, every State Authority shall, by notification, establish Permanent Lok Adalats at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification.
- (2) Every Permanent Lok Adalat established for an area notified under sub-section (1) shall consist of –
 - (a) a person who is, or has been, a district judge or additional district judge or has held judicial office higher in rank than that of a district judge, shall be the Chairman of the Permanent Lok Adalat; and
 - (b) two other persons having adequate experience in public utility service to be nominated by the Central Government or, as the case may be, the State Government on the recommendation of the Central Authority or, as the case may be, the State Authority, appointed by the Central Authority or, as the case may be, the State Authority, establishing such Permanent Lok Adalat and the other terms and conditions of the appointment of the Chairman and other persons referred to in clause (b) shall be such as may be prescribed by the Central Government.

22C. Cognizance of cases by Permanent Lok Adalat -

- (1) Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute :

Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law:

Provided further that the Permanent Lok Adalat shall not have jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees:

1. Chapter VIA (containing sections 22A to 22E) ins. by Act 37 of 2002, sec. 4 (w.e.f. 11.6.2002).

Provided also that the Central Government, may, by notification, increase the limit of ten lakh rupees specified in the second proviso in consultation with the Central Authority.

- (2) After an application is made under sub-section (1) to the Permanent Lok Adalat, no party to that application shall invoke jurisdiction of any court in the same dispute.
- (3) Where an application is made to a Permanent Lok Adalat under sub-section (1), it -
 - (a) shall direct each party to the application to file before it a written statement, stating therein the facts and nature of dispute under the application, points issues in such dispute and grounds relied in support of, or in opposition to, such points or issues, as the case may be, and such party may supplement such statement with any document and other evidence which such party deems appropriate in proof of such facts and grounds and shall send a copy of such statement together with a copy of such document and other evidence, if any, to each of the parties to the application;
 - (b) may require any party to the application to file additional statement before it at any stage of the conciliation proceedings;
 - (c) shall communicate any document or statement received by it from any party to the application to the other party, to enable such other party to present reply thereto.
- (4) When statement, additional statement and reply, if any, have been filed under sub-section (3), to the satisfaction of the Permanent Lok Adalat, it shall conduct conciliation proceedings between the parties to the application in such manner as it thinks appropriate taking into account the circumstances of the dispute.
- (5) The Permanent Lok Adalat shall, during conduct of conciliation proceedings under sub-section (4), assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner.
- (6) It shall be the duty of every party to the application to cooperate in good faith with the Permanent Lok Adalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent Lok Adalat to produce evidence and other related documents before it.
- (7) When a Permanent Lok Adalat, in the aforesaid conciliation proceedings, is of opinion that there exist elements of settlement in such proceedings which may be acceptable to the parties, it may formulate the terms of a possible settlement of the dispute and give to the parties concerned for their observations and in case the parties reach at an agreement on the settlement of the dispute, they shall sign the settlement agreement and the Permanent Lok Adalat shall pass an award in terms thereof and furnish a copy of the same to each of the parties concerned.
- (8) Where the parties fail to reach at an agreement under sub-section (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute.

22D. Procedure of Permanent Lok Adalat - The Permanent Lok Adalat shall, while conducting conciliation proceedings or deciding a dispute on merit under this Act, be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice, and shall not be bound by the Code of Civil Procedure, 1908 (5 of 1908) and the Indian Evidence Act, 1872 (1 of 1872).

22E. Award of Permanent Lok Adalat to be final-

- (1) Every award of the Permanent Lok Adalat under this Act made either on merit or in terms of a settlement agreement shall be final and binding on all the parties thereto and on persons claiming under them.

- (2) Every award of the Permanent Lok Adalat under this Act shall be deemed to be a decree of a civil court.
- (3) The award made by the Permanent Lok Adalat under this Act shall be by a majority of the persons constituting the Permanent Lok Adalat.
- (4) Every award made by the Permanent Lok Adalat under this Act shall be final and shall not be called in question in any original suit, application or execution proceeding.
- (5) The Permanent Lok Adalat may transpirt any award made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.]

CHAPTER VII

MISCELLANEOUS

¹[**23. Members and staff of Authorities, Committees and Lok Adalats to be public servants -** The members including Member-Secretary or, as the case may be, Secretary of the Central Authority, the State Authorities, the District Authorities, the Supreme Court Legal Services Committee, High Court Legal Services Committee, Taluk Legal Services Committees and officers and other employees of such Authorities, Committees and the ¹[Members of the Lok Adalats or the persons Constituting Permanent Lok Adalats] shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

24. Protection of action taken in good faith - No suit, prosecution or other legal proceedings shall lie against -

- (a) the Central Government or the State Government;
- (b) the Patron-in-Chief, Executive Chairman, Members or Member Secretary or officers or other employees of the Central Authority;
- (c) Patron-in-Chief, Executive Chairman, Member, Member Secretary or officers or other employees of the State Authority;
- (d) Chairman, Secretary, Members or officers or other employees of the Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees or the District Authority; or
- (e) Any other person authorized by any of the Patron-in-Chief, Executive Chairman, Chairman, Members, Member Secretary referred to in sub-clauses (b) to (d),

for anything which is in good faith done or intended to be done under the provisions of this Act or any rule or regulation made there under.

25. Act to have over-riding effect - The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

26. Power to remove difficulties -

- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

1. Subs. by Act 59 of 1994 sec. 17, for sections 23 and 24 (w.e.f. 29.10.1994).

2. Subs. by Act 37 of 2002, sec. 5, for "members of the Lok Adalat" (w.e.f. 11.6.2002).

- (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

27. Power of Central Government to make rules -

- (1) The Central Government, in consultation with the Chief Justice of India may, by notification, make rules to carry out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the forgoing power, such rules may provide for all or any of the following matters, namely:-
- (a) the number, experience and qualifications of other members of the Central Authority under clause (c) sub-section (2) of section 3;
 - (b) the experience and qualifications of the Member Secretary of the Central Authority and his powers and functions under sub-section (3) of section 3;
 - (c) the terms of office and other conditions relating thereto, of Members and Member Secretary of the Central Authority under sub-section (4) of section 3;
 - (d) the number of officers and other employees of the Central Authority under sub-section (5) of section 3;
 - (e) the conditions of service and the salary and allowances of officers and other employees of the Central Authority under sub-section (6) of section 3;
 - (f) the number, experience and qualifications of Members of the Supreme Court Legal Services Committee under clause (b) of sub-section (2) of section 3A;
 - (g) the experience and qualifications of Secretary of the Supreme Court Legal Services Committee under sub-section (3) of section 3A;
 - (h) the number of officers and other employees of the Supreme Court Legal Services Committee under sub-section (5) of section 3A and the conditions of service and the salary and allowances payable to them under sub-section (6) of that section;
 - (i) the upper limit of annual income of a person entitling him to legal services under clause (h) of section 12, if the case is before the Supreme Court;
 - (j) the manner in which the accounts of the Central Authority, the State Authority or the District Authority shall be maintained under section 18;
 - (k) the experience and qualifications of other persons of the Lok Adalats organized by the Supreme Court Legal Services Committee specified in sub-section (3) of section 19;
 - (l) other matters under clause (e) of sub-section (1) of section 22;
 - ¹(la) the other terms and conditions of appointment of the Chairman and other persons under sub-section (2) of section 22B,
 - (m) any other matter which is to be, or may be, prescribed.

28. Power of State Government to make rules -

- (1) The State Government in consultation with the Chief Justice of the High Court may, by notification, 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 number, experience and qualifications of other Members of the State Authority under clause (c) of sub-section (2) of section 6;

1. Subs. by Act 59 of 1994, sec. 18, for sections 27, 28 and 29 (w.e.f. 29.10.1994).
2. Ins. by Act 37 of 2002, sec. 6 (w.e.f. 11.6.2002)

- (b) the powers and functions of the Member Secretary of the State Authority under sub-section (3) of section 6.
- (c) the terms of office and other conditions relating thereto, of Members and Member Secretary of the State Authority under sub-section (4) of section 6;
- (d) the number of officers and other employees of the State Authority under sub-section (5) of section 6;
- (e) the conditions of service and the salary and allowances of officers and other employees of the State Authority under sub-section (6) of section 6;
- (f) the experience and qualifications of Secretary of the High Court Legal Services Committee under sub-section (3) of section 8A;
- (g) the number of officers and other employees of the High Court Legal Services Committee under sub-section (5) of section 8A and the conditions of service and the salary and allowances payable to them under sub-section (6) of that section;
- (h) the number, experience and qualifications of Members of the District Authority under clause (b) of sub-section (2) of section 9;
- (i) the number of officers and other employees of the District Authority under sub-section (5) of section 9;
- (j) the conditions of service and the salary and allowances of officers and other employees of the District Authority under sub-section (6) of section 9;
- (k) the number, experience and qualifications of Members of the Taluk Legal Services Committee under clause (b) of sub-section (2) of section 11A;
- (l) the number of officers and other employees of Taluk Legal Services Committee under sub-section (3) of section 11A;
- (m) the conditions of service and the salary and allowances of officers and other employees of the Taluk Legal Services Committee under sub-section (4) of section 11A;
- (n) the upper limit of annual income of a person entitling him to legal services under clause (h) of section 12, if the case is before a court, other than the Supreme Court;
- (o) the experience and qualifications of other persons of the Lok Adalats other than referred to in sub-section (4) of section 19;
- (p) any matter which is to be, or may be prescribed.

29. Power of Central Authority to make regulations -

- (1) The Central Authority may, by notification, make regulations not inconsistent with the provisions of this Act and the rules made there under, to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—
 - (a) the powers and functions of the Supreme Court Legal Services Committee under sub-section (1) of section 3A;
 - (b) the terms of office and other conditions relating thereto, of the members and Secretary of the Supreme Court Legal Services Committee under sub-section (4) of section 3A.

29A. Power of State Authority to make regulations -

- (1) The State Authority may, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

- (2) In particular, and without prejudice to the generality of the forgoing power, such regulations may provide for all or any of the following matters namely:—
- (a) the other functions to be performed by the State Authority under clause (d) of sub-section (2) of section 7;
 - (b) the powers and functions of the High Court Legal Services Committee under sub-section (1) of section 8A;
 - (c) the number, experience and qualifications of Members of the High Court Legal Services Committee under clause (b) of sub-section (2) of section 8A;
 - (d) the terms of office and other conditions relating thereto, of the Members and Secretary of the High Court Legal Services Committee under sub-section (4) of section 8A.;
 - (e) the terms of office and other conditions relating thereto, of the Members and Secretary of the District Authority under sub-section (4) of section 9;
 - (f) the number, experience and qualifications of Members of the High Court Legal Services Committee under clause (b) of sub-section (2) of section 8A;
 - (g) the other functions to be performed by the District Authority under clause (c) of sub-section (2) of section 10;
 - (h) the terms of office and other conditions relating thereto, of the Members and Secretary of the Taluk Legal Services Committee under sub-section (3) of section 11 A;

30. Laying of rules and regulations -

- (1) Every rule made under this Act by the Central Government and every regulation made by the Central Authority there under 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation 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 or regulation.
- (2) Every rule made under this Act by a State Government and every regulation made by a State Authority there under shall be laid, as soon as may be after it is made, before the State Legislature.
-

ORISSA STATE LEGAL SERVICES AUTHORITY REGULATION, 1996

The 19th December, 1996

S.R.O. No.990/96 - In exercise of the powers conferred by Section 29-A of the Legal Services Authorities Act, 1987 (39 of 1987), the Orissa State Legal services Authority hereby makes the following regulations for the purpose of giving effect to the provisions of the said act, namely;

The Orissa State Legal Service Authority Regulation, 1996.

CHAPTER I PRELIMINARY

1. Short title and commencement -

- (1) These regulations may be called the Orissa State Legal Services Authority Regulations, 1996.
- (2) They shall come into force on the date of their publication in the *Orissa Gazette*.

2. Definition-

- (1) In these regulations, unless the context otherwise requires-
 - (a) "**Act**" means the Legal Services Authorities Act, 1987 (39 of 1987);
 - (b) "**Committee**" means the High Court Legal Services Committee;
 - (c) "**High Court**" means the High Court of Orissa.
 - (d) "**Rules**" means the Orissa State Legal Services Authority Rules, 1996.
- (2) All other words and expressions used in these regulations, but not defined herein, shall have the same meanings as are respectively assigned to them in the Act or the Rules.

CHAPTER II HIGH COURT LEGAL SERVICES COMMITTEE

3. Number, experience and qualifications of members of the committee under clause (b) of Sub-sec. (2) of Section 8-A of the Act -

- (1) The Committee shall have not more than eleven members including the Chairman thereof.
- (2) The following shall be *ex officio* members of the Committee:
 - (i) a sitting Judge of the High Court, (to be nominated by the Chief Justice of the High Court);
 - (ii) the Chairman, Orissa Administrative Tribunal;
 - (iii) the President, High Court Bar Association;
 - (iv) the Chairman, Orissa State Bar Council; and
 - (v) the Secretary to the Committee appointed as such by the Chief Justice of the High Court under Sub-sec. (3) of Section 8-A of the Act.
- (3) The Chief Justice of the High Court may nominate other members (not exceeding five) from among those possessing the experience and qualifications provided in Sub-regulation (4);
- (4) A person shall not be qualified for nomination as a member of the Committee, unless he is;

- (a) an eminent Social Worker who is engaged in the upliftment of the weaker sections of the people, including Scheduled Castes, Scheduled Tribes, women, children, rural and urban labour; or
- (b) an eminent person in the field of law; or
- (c) a person of repute who is specially interested in the implementation of the legal services schemes.

4. Term of office and other conditions of appointment of members of the Committee-

- (1) The term of office of the members of the Committee nominated under Sub-regulation (3) of Regulation 3 shall be [three years] and they shall be eligible for re-nomination.
- (2) A member of the Committee nominated under Sub-regulation (3) of Regulation 3 may be removed by the Chief Justice of the High Court, if the member-
 - (a) fails, without sufficient case, to attend three consecutive meetings of the Committee; or
 - (b) has been adjudged an insolvent; or
 - (c) has been convicted of an offence, which in the opinion of the State Authority, involves moral turpitude; or
 - (d) has become physically or mentally incapable of acting as a member; or
 - (e) has so abused his position as to render his continuance in the Committee prejudicial to the public interest;

Provided that no member shall be removed from the Committee without being afforded reasonable opportunity of being heard.

- (3) A member may, by writing under his hand addressed to the Chairman, resign from the Committee and such resignation shall take effect from the date on which it is accepted by the State Authority or on the expiry of thirty days from the date of tendering resignation, whichever is earlier.
- (4) If any member nominated under Sub-regulation (3) of Regulation 3 ceases to be a member of the Committee for any reason, the vacancy shall be filled up in the same manner as the original nomination and the person so nominated shall continue to be a member for the remaining term of the members in whose place he is nominated.
- (5) Subject to the provision of Sub-regulation (6) all members nominated under Sub-regulation (3) of Regulation 3 shall be entitled to pay of traveling allowance and daily allowance in respect of journey performed in connection with the work of the Committee and shall be paid by the Committee at the rates admissible to the first grade officers of the State Government under the Orissa Traveling Allowances Rules.
- (6) If a member is Government employee, he shall be entitled to draw traveling allowance and daily allowance at the rates to which he is entitled to under the Traveling Allowance Rules applicable to him and shall draw from the Department, in which he is employed and not from the Committee.

5. Functions of the Committee -

- (1) It shall be the duty of Committee to give effect to the policy and directions of the State Authority.
- (2) Without prejudice to the generality of the functions referred to in Sub-regulation (1), the Committee shall, for the High Court, in consultation with the Executive Chairman, State Authority perform all or any of the following functions, namely;

- (a) provide legal services to persons who satisfy the criteria laid down under the Act and the Rules;
- (b) conduct Lok Adalats for High Courts cases; and
- (c) encourage the settlement of disputes by way of negotiations, arbitration and conciliation.

6. Functions of the Secretary -

- (1) The Secretary shall be the custodian of all the assets, arbitration, accounts, records and funds placed at the disposal of the Committee and shall work under the supervision and direction of the Chairman of the Committee.
- (2) The Secretary shall maintain or cause to be maintained true and proper accounts of the receipts and disbursements of the funds of the Committee.
- (3) The Secretary shall convene meetings of the Committee with the previous approval of the Chairman and shall be responsible for maintaining a record of the minutes of the proceedings of the meetings.

7. Meetings of the Committee -

- (1) The Committee shall ordinarily meet once a month on such date and at such place as the Secretary may, in consultation with the Chairman, decide.
- (2) The Chairman, and in the absence of the Chairman, a person chosen by the members present from amongst themselves shall preside at the meeting of the Committee.
- (3) The procedure at any meeting of the Committee shall be such as the Committee may determine.
- (4) The minutes of the proceedings of each meeting shall be truly and faithfully maintained by the Secretary and such minutes shall be open to inspection at all reasonable times by the members of the Committee. A copy of the minute shall as soon as may be after the meetings be forwarded to the State Authority.
- (5) The quorum for the meetings shall be fix including the Chairman at the member presiding over the meeting.
- (6) All questions at the meeting of the Committee shall be decided by a majority of the members present and voting ad in case of a tie the person presiding shall have a second or casting vote.

8. Funds, Accounts and Adult of the Committee -

- (1) The funds of the Committee shall consist of such amounts as may be allocated and granted to it by the State Athority as also such amounts as may be received by the Committee, from time to time, either by way of donations or by way of costs, charges and expenses recovered from the legal aided persons or the opposite party or other wise.
- (2) The Funds of the committee shall be maintained in a Scheduled Bank.
- (3) For the purpose of meeting, the incidental minor charges such as Court fees, stamps & expenditure necessary for obtaining copies of documents, etc. a permanent advance of rupees three thousand shall be placed at the disposal of the Secretary of the committee.
- (4) All expenditure on legal aid and advice, provision of other legal services as also expenditure necessary for carrying out the various functions of the committee, shall be met out of the funds of the committee, Secretary shall operate the bank accounts of the Committee in accordance with the directions of the Chairman.

- (5) The Committee shall cause to be kept and maintained true and correct accounts of all receipts and disbursements and furnish quarterly returns to the State Authority. The accounts of the committee shall be subject to audit under the Orissa Local Fund Audit Act, 1948, at least once a year, and any expenditure incurred in connection with such audit shall be paid by the committee.

CHAPTER III
DISTRICT LEGAL SERVICES AUTHORITIES AND TALUK LEGAL
SERVICES COMMITTEES

9. Secretary, District Authority -

- (1) The Secretary of the District Authority appointed under Sub-Section (3) of Section 9 of the Act. shall act, exercise and perform the duties of the Secretary of the District Authority in addition to the duties to be discharged by him as a Judicial Officer.
- (2) The Secretary shall be the principal officer of the District Authority shall be custodian of all assets, accounts, records and funds placed at the disposal of the District Authority.
- (3) The Secretary shall maintain or cause to be maintained true and proper accounts of the receipts and disbursements of the funds of the District Authority.
- (4) The Secretary shall convene meetings of the District Authority with the previous approval of the Chairman and shall also attend meetings, and shall be responsible for maintaining a record of the minutes of the proceedings of the meetings.

[9A. Term of office of nominated members of District Authority - The term of office of the members of the District Authority nominated under sub- rule (3) of rule 10 of the Rules shall be for three years.]

10. Meeting of the District Authority -

- (1) The District Authority shall ordinarily meet once a month on such date and at such place, as the Secretary may, in consultation with the Chairman, decide.
- (2) The Chairman, and in the absence of the Chairman, a person chosen by the members present from amongst themselves shall preside at the meeting of the District Authority.
- (3) The procedure at any meeting of the District Authority shall be such as the District Authority may determine.
- (4) The minutes of the proceedings of each meeting shall be truly and faithfully maintained by the Secretary and such minutes shall be open to inspection at all reasonable times by the members of the District Authority. A copy of the minutes shall, as soon as may be after the meeting, be forwarded to the Chairman of the District Authority.
- (5) The quorum for the meeting shall be three including the Chairman or the member presiding over the meeting.
- (6) If questions at the meetings of the District Authority shall be decided by majority of the members present and voting and in case of a tie the person presiding shall have a second or casting vote.

11. Funds of the District Authority -

- (1) The funds of the District Authority established under section 17 of the Act, shall be maintained in a Scheduled Bank.

- (2) For the purpose of meeting the incidental minor charges such as Court fee, stamp and expenditure necessary for obtaining copies of documents, etc. a permanent advance of rupees two thousand shall be placed at the disposal of the Secretary of the District Authority.
- (3) All expenditure on legal aid and advice, provision of other legal services as also expenditure necessary for carrying out the various functions of the District Authority, shall be met out of the funds of the District Authority and in accordance with such rules as may be made by the District Authority with the prior approval of the State Authority. The Secretary shall operate the bank accounts of the District Authority.
- (4) The District Authority shall cause to be kept and maintained true and correct accounts of all receipts and disbursement and furnish quarterly returns to the State Authority. Such accounts shall be audited in accordance with the provisions of Section 18 of the Act.

12. Secretary of the Taluk Legal Services Committee -

- (1) The Junior Clerk-cum-Typist of the office of the person performing the functions of the Chairman of the Taluk Legal shall act, exercise and perform the duties of the Secretary of the Taluk Legal Services Committee.
- (2) The Secretary shall be the custodian of all assets, accounts, records and funds placed at the disposal of the Taluk Committee.
- (3) The Secretary shall maintain or cause to be maintained true and proper accounts of the receipts and disbursements of the funds of the Taluk Committee.
- (4) The Secretary shall, with the previous approval of the Chairman, convene meetings of the Taluk Committee and shall also attend meetings and shall be responsible for maintaining a record of the minutes of the proceedings of the meetings.

[12-A Term of office of nominated members of Taluk Legal Services Committee - The term of office of the members of the Taluk Legal Services Committee nominated under Sub-rule (3) of rule 13 of the Rules shall be for three years]

13. Meetings of the Taluk Committee -

- (1) The Taluk Committee shall ordinarily meet once a month on such date and at such place, as the Chairman may decide.
- (2) The Chairman and, in the absence of the Chairman, a person chosen by the members present from amongst themselves shall preside at the meeting of the Taluk Committee.
- (3) The procedure at any meetings of the Taluk Legal Services Committee shall be such as the Taluk Committee may determine.
- (4) The minutes of the proceedings of each meetings shall be truly and faithfully maintained by the Secretary and such minutes shall be open to inspection at all reasonable times by the members of the Taluk Committee. A copy of the minutes shall as soon as may be after the meeting, be forwarded to the District Authority as well as State Authority.
- (5) The quorum for the meeting shall be three including the Chariman or the member presiding over the meeting.
- (6) All questions at the meeting of the Taluk Committee shall be decided by a majority of the members present and voting and, in case of a tie, the person presiding shall have a second or casting vote.

14. Funds, Accounts and Audit of the Taluk Legal Services Committee-

- (1) The funds of the Taluk Committee shall consist of such amount as may be allocated and granted to it by the State Authority as also such amounts as may be received by the

Committee from time to time either by way of donations or by way of costs, charges and expenses recovered from the legal aided persons of the opposite-party or otherwise.

- (2) The funds of the Taluk Committee shall be maintained in a Scheduled Bank.
- (3) For the purpose of meeting the incidental minor charges such as Court fee, stamps and expenditure necessary for obtaining copies of documents, etc., a permanent advance of rupees two thousand shall be placed at the disposal of the Secretary of Taluk committee.
- (4) All expenditure on legal aid and advice, provisions of other legal services as also expenditure necessary for carrying out the various functions of the Taluk Committee shall be met out of the funds of the Taluk Committee. The secretary shall operate the bank accounts of the Committee in accordance with the directions of the Chairman.
- (5) The Taluk Committee shall cause to be kept and maintained true and correct accounts of all receipts and disbursements and furnish quarterly returns to the State Authority. The accounts of the Taluk Committee shall be subject to audit under the Orissa Local Fund Audit Act, 1948 at least once a year, and any expenditure incurred in connection with such audit shall be paid by the Taluk Committee.

CHAPTER IV

LEGAL AID

15. Modes of Legal aid- Legal aid may be given in all or anyone or more of the following modes, namely:

- (a) payment of the Court fees, process fees, expenses of witnesses and all other charges payable or incurred in connection with any legal proceedings;
- (b) representation by a legal practitioner in legal proceedings;
- (c) supply of certified copies of judgments, orders, notes of evidence and other documents in legal proceedings;
- (d) preparation of Appeal Paper Book, including printing and translation of documents, in legal proceedings; [***]
- (e) drafting of legal documents;
- (f) organizing Lok Adalats, Legal Aid Camps, Legal Literacy Camps and the like by the Authorities and Committees under the Act and the Rules]

16. Legal aid not to given in certain cases - Legal aid shall not be given in the following cases namely;

- (1) Proceedings wholly or partly in respect of -
 - (a) defamation; or
 - (b) malicious prosecution.
- (2) Proceeding relating to any election.
- (3) Proceedings incidental to any proceedings referred to in items (1) and (2)
- (4) Proceedings in respect of offences punishable with the fine only.
- (5) Proceeding in respect of economic offences and offences against social laws, such as the protection of Civil Rights Act, 1955, and the Suppression of Immoral Traffic in Women and Girls Act, 1956.
- (6) Where person seeking legal aid-

- (a) is concerned with the proceedings only in representative or official capacity; or
- (b) is concerned with the proceedings jointly with some other person or persons whose interests are identical with his and such person or any of such person is adequately represented in the proceedings; or
- (c) is a formal a party to the proceedings, not materially concerned in the outcome of proceedings and his interests are not likely to be prejudiced on account of the absence of proper representation.

17. Application for legal aid or advice -

- (1) Any person desiring legal aid or advice may make in application in Form A addressed to the Secretary of the Authority/Committee. But if the applicant is illiterate or not in a position to fill in the particulars required in the application, the Secretary or any other officer of the Committee or any legal practitioner whose name appears on the panel of legal aid lawyers of the Authority/Committee, as the case may be, or any person authorized by the applicant, shall gather the necessary particulars from the applicant and prepare the application on his behalf and after reading it out and explaining it to him, obtain his signature or thumb mark on it.
- (2) The Authority/Committee shall maintain a Register of applications wherein all applications for legal aid and advice shall be entered and registered and the action taken on such applications shall be noted against the entry relating to each such application.

18. Disposal of applications -

- (1) On receipt of an application legal aid or advice, in the case of High Court Committee or District Authority, the Secretary and in the case of Taluk Committee the Chairman of the Taluk Committee shall scrutinize the application for the purposed of deciding whether the applicant is deserving of legal aid in accordance with provision of these regulations and for the purpose of arriving at such decision, he may require the applicant to submit further information as may be necessary and also discuss the matter personally with the applicant. The applications shall be processed as early as possible and preferably within one week.
- (2) The Legal Services Authority/Committee to which application is made shall consider the application and decide desirability of granting application and its decision to give or refuse legal aid shall be final.
- (3) Where it is decided not to give legal aid to an applicant, the reaons for not doing so shall be entered in the Register of applications maintained by the Authority/Committee and information in writing to that effect shall be communicated to the applicant.
- (4) No application for legal aid and advice shall be allowed, if the Authority/Committee satisfied that-
 - (a) the applicant has knowingly made false statement or funished false information as regards his means or place of residence; or
 - (b) in a proceeding, other than the one relating to criminal prosecution, there is no *prima facie* case to institute or, as the case may be, to defend the proceeding; or
 - (c) the application is frivolous or fictitious; or
 - (d) the applicant is not entitled to the same under regulation 16 or any other provision these regulations;
 - (e) having regard to all the circumstances of the case, it is otherwise not reasonable grant it.

19. Certificate of eligibility -

- (1) Where an application for legal aid or advice is allowed, Secretary of the Authority/Committee shall issue a Certificate of Eligibility in Form B to C applicant entitling him to legal aid or advice in respect of the proceeding concerned.
- (2) The Certificate of Eligibility shall stand cancelled if the legal aid is withdrawn and lawyer to whom the case of the applicant is assigned as also the Court before which the case pending shall be informed accordingly in writing.

20. Honorarium payable to legal practitioner on the panel-

- (1) Subject to the approval of the State Authority, the Legal Services Committee shall prepare for a period of two years, a panel of legal practitioner who are prepared to represent or prosecute the cases on behalf of the legal aided persons under these regulations. The legal practitioners on the panel shall be paid honorarium as set out in the Schedule;

Provided that where the matter is disposed of in less than five effective hearing, the fees payable shall be $\frac{1}{2}$ of the fee prescribed in the Schedule.

- (2) No legal practitioner to whom any cases is assigned either for legal advice or for legal aid shall receive any fee or remuneration whether in cash or in kind or any other advantage, monetary or otherwise, from the aided person or from any other person on his behalf.
- (3) The legal practitioner on the panel, who has completed his assignment, shall submit a statement showing the honorarium due to him in connection with the legal proceeding conducted by him on behalf of the legally aided person to the Secretary of the Authority/Committee who shall, with the approval of the Chairman and after due scrutiny and countersignature, place the same before the Authority/Committee for sanction and on such sanction being given by the Authority/Committee the amount shall be paid by the Secretary to the legal practitioner. It will however, be open to the legal practitioner to waive the honorarium in whole or part.

¹[3-a) On completion of assignment when the legal practitioner conducting the legal proceedings on behalf of the aided person submits his statement of honorarium, the same shall be scrutinized and passed by the Member Secretary of the State Authority and payment of honorarium shall be made after obtaining the approval of the Hon'ble Executive Chairman which shall finally be placed before the Authority in its meeting for post-factor approval. This shall be applicable only in respect of the statement of honorarium submitted by the legal practitioner before the Member Secretary of the State Authority.]

- (5) Notwithstanding anything contained in this regulation the Court may, in any case in which no legal practitioner on the panel has been engaged, direct engagement of any other legal practitioner is at may deem appropriate and, in every such case-

(a) it shall be the duty of the legal practitioner so engaged to inform the fact of his engagement to the concerned Authority/Committee, and.

(b) The provisions of these regulations shall apply to such legal practitioner as they apply to a legal practitioner on the panel.

21. Duties of aided person -

- (1) A person seeking legal aid or advice shall comply with any requisition or direction that may be made upon him by the Authority/Committee from the date the application for legal aid or advice is made till the completion or cessation of legal aid or cancellation of the Certificate of Eligibility.

- (2) Every such person shall execute an agreement in Form C agreeing in the event of the Court passing a decree or order in his favour awarding costs to him or other monetary benefit or advantage, to repay by way of reimbursement to the Committee all costs, Charges and expenses incurred by the Committee in giving him legal aid. For facilitating such reimbursement he shall execute an irrevocable power of Attorney in Form D authorizing the Member Secretary /Secretary of the Authority/Committee to do all such acts and thing as may be necessary for recovery or realization of the amount decreed or ordered to be paid to him. The costs, charges and expenses which may be recovered by the Authority/Committee as aforesaid shall be credited to the State Government.
- (3) Every aided person or his representative shall attend the office of the Authority/Committee as and when required by the Authority/Committee or by the legal practitioner rendering legal aid to him and shall furnish full and true information and shall make full disclosure to the legal practitioner concerned and shall attend the Court, as and when required, at his own expenses.

22. Cancellation of Certificate of Eligibility -

- (1) The Authority/Committee may either on its own motion or otherwise cancel the Certificate of Eligibility granted under regulation 19 in the following circumstances, namely:
- (a) in the event of being found that the aided person was possessed of sufficient means or the Certificate of Eligibility was obtained by misrepresentation or fraud.
 - (b) in the event of any material change in the circumstances of the aided person;
 - (c) in the event of any misconduct, misdemeanor or negligence on the part of the aided person in the course or receiving legal aid;
 - (d) in the event of the aided person not co-operating with the Authority/Committee or with the legal practitioner assigned by the Committee/Authority/Court;
 - (e) in the event of the aided person engaging a legal practitioner other than the one assigned by the Committee/Authority unless the engagement is under direction of any Court;
 - (f) in the event of death of the aided persons, except in the case of civil proceedings where the right of liability survives;
 - (g) a report has been received from the Advocates assigned to the legally aided persons that the legally aided person is not co-operating with the Advocate assigned to him or is guilty of misconduct towards the Advocate and such report has been verified by the Chairman of the Legal Services Committee/Authority.
 - (h) in the event of externment under any law for the time being in force, of the aided person, from the area or place of his residence or business.

Provided that no such Certificate of Eligibility shall be cancelled without giving due notice thereof to the aided person or to his legal representatives in the event of his death, to show causes as to why the Certificate should not be cancelled.

- (2) Where the Certificate of Eligibility is cancelled on the grounds set out in Clause (a) above, the Authority/Committee shall discontinue legal aid allowed and shall be entitled to recover from the aided person the amount of legal aid granted to him.

23. Proceeding by the Chairman in most urgent cases -Notwithstanding anything to the contrary contained in these regulations, in case the Chairman of any committee/ Authority is of the opinion that such a situation has arisen where immediate action is required to be taken or there is no possibility of immediately convening the meeting of the Committee/

Authority, then he may, in anticipation of the approval of the Committee/Authority concerned, take such action taken to the Committee/Authority concerned.

CHAPTER V

MISCELLANEOUS

24. Traveling Allowance and Daily Allowance for journeys in connection with Lok Adalats and legal aid programmes of the State Authority-

- (1) The *ex officio* Members of the State Authority including the Patron-in-Chief and the Executive Chairman shall be entitled to draw their Travelling Allowances and Daily Allowance from the State Legal Aid Fund established under section 16 of the Act for performing the functions of the State Authority, at the rate applicable to them under the rules governing their conditions of service.
- (2) The other persons, who are required by the State Authority to participate in the Lok Adalats or legal aid programmes of the State Authority, shall be entitled to the payment of Travelling allowance and Daily Allowance from the State Legal Aid Fund in respect of journeys performed by them in connection therewith, at the rate applicable to them under the rules governing their conditions of services:

Provided that where no rule is applicable to any such persons, the participating person shall be entitled to Travelling Allowance and Daily Allowance at the rate applicable to the 1st Grades Officers of the State Government.

- (3) No Travelling Allowance and Daily Allowance shall be admissible under this rule to any Memembr or other person referred to in Sub-rules (1) and (2) if the draws Travelling Allowance and Daily Allowance from any other source for performing the same journey.

25. Expenditure from the State Legal Aid Fund-

- (1) All expenditures from the State Legal Aid Fund shall require the approval of the state Authority.
- (2) Where any expenditure is incurred without such approval to meet any urgent requirement, the Member-Secretary shall place the matter before the State Authority at its next meeting held immediately after the expenditure so incurred, for ratification.
- (3) The funds of the Orissa State Legal Services Authority shall be maintained in a scheduled Bank subject to a maximum of Rs.50,000 (Rupees fifty thousand).

SCHEDULE

[See Regulation 20(i)]

(a) In all cases before Courts and Tribunals except before the High Court, the honorarium shall be as follows:

1.	Suits	Rs.750.00
	Probate Proceedings	Rs.450.00
	Drafting of Plaint	Rs.150.00
	Drafting of written statement	Rs.150.00
2.	Original proceedings before the Criminal And Revenue Courts	Rs.450.00
3.	Appeals from original decree	Rs.750.00
4.	Appeal from orders	Rs.300.00
5.	Criminal appeals and Revision against Orders of conviction	Rs.750.00
6.	Other revisions	Rs.375.00
7.	Other proceedings	Rs.375.00
8.	Original application before SAT & CAT	Rs. 750.00

(b) In all cases before the High Court, the honorarium shall be as follows:-

1.	First Appeal	Rs.1,050.00
2.	Second Appeal up to admission	Rs.300.00
	Hearing	Rs.750.00
3.	Misc.Appeal up to admission	Rs.225.00
	Hearing	Rs.375.00
4.	Civil Revision up to admission	Rs.225.00
	Hearing	Rs.525.00
5.	O.J.C. up to admission	Rs.450.00
	Hearing	Rs.600.00
6.	Criminal appeal	Rs.750.00
7.	Criminal Revision up to admission	Rs.225.00
	Hearing	Rs.525.00
	Code of Criminal Procedure, 1973	
	Up to admission	Rs.225.00
	Hearing	Rs.150.00
		Per day]

FORM A

[See Regulation 17(1)]

FORM AND APPLICATION FOR LEGAL AID OR ADVICE

To

The Secretary Authority/Committee

Sir,

I aged about son/daughter/wife/widow of at present residing at beg to apply for legal aid/advice under the following circumstances, namely:

1. I am employed/not employed
 - (a) Nature of employment/occupation/trade/business.
 - (b) Whether employed in the Army, Navy or Air Force or Police Force or retired therefrom.
 - (c) Since what time
2. My monthly income is
3. (a) My residential premises are rented in my name or jointly or they are owned by me alone or jointly.
- (b) The rent thereof or the value thereof
4. I have agriculture lands at bearing Survey No paying assessment of Rs *per annum* (State, if owned or taken on rent).
 - (a) Income thereof is
 - (b) Value of produce thereof is
5. My other sources of income are (give particulars)
6. My other assets/properties/effects and their value.
7. I have/have not disposed of any of my properties/assets and effects within a period of six months prior to the date of this application by way of sale, gift mortgage or otherwise.
8. The number of member of my family is and their relationship with me is under.
9. The number of dependent members in my family is "and their relationship with me is as under.
10. The income, if any, of other members of my family residing with me is as under.
11. The nature of legal aid or advice required is in respect of (State the nature of dispute, claim of right and state the documents in support thereof, State also separately the origin of dispute, claim or rights of other relevant particulars thereof)
12. The proof in support of my aforesaid claim/right/dispute/defence is as under-
13. I have/have not applied for legal aid or advice previously, if yes, state the content or substance thereof or the result thereof (if any advice has been received, please disclose the same.)
14. I am willing to furnish such further information as may be required for the purpose of enabling you to consider this application fully.

15. I am/am not in a position to any Court costs and costs of miscellaneous proceedings (The applicant may also state the amount which he is prepared to pay by way of costs an miscellaneous costs or a proportion or part thereof).
16. I shall reimburse the State Government all cost, charge and expenses incurred by the Committee in giving me legal aid, if the Court passes a decree order in my favour awarding costs to me or their monetary benefits or advantage of if I cease to be entitled to legal aid under these regulations.
17. The above statements are true to the best of my knowledge and belief.

Date:

Place:

Signature of Applicant

FORMB

[(See Regulation 19(I)]

The High Court Legal Services Committee/District Authority/Taluk Legal Services Committee

.....

Certificate of Eligibility

This is to certify that with reference to applications, dated the 20Shri/Shrimati residing at is entitled to receive legal aid or advice in respect of legal proceeding, particulars whereof are given below:

Name of Court/Tribunal/ Authority:

Number and description of the Legal proceeding:

Name and address of opponent :

Extent of aid to be given :

Other relevant particulars :

Place:

Date:

Secretary

..... Authority/Committee

FORM C

[(See Regulation 21 (2)]

Form of Agreement to be executed by an applicant for grant of Legal Aid.

This Agreement made the day of between son/wife/daughter ofaged years, residing at (hereinafter referred to as "the Applicant") of the one part and the Governor of Orissa exercising the executive power of the Government of the State of Orissa (hereinafter referred to as "the Government") of the other part;

Whereas in pursuance of Section 6 of the Legal Services Authorities Act, 1987 the State Government have constituted a body called "The State Legal Service Authority" (hereinafter referred to as the State Authority) for the State of Orissa under the Notification of the Government of Orissa in the Law Department No.4937-LAP-12/96-Law, dated the 11th April,1996 published in the Extraordinary issue No.394 of the *Orissa Gazette*, dated the 15th April, 1996 as S.R.O. No.267/96 to exercise the powers and to perform the functions conferred on or assigned to, a State Authority under the said Act;

And whereas the State Authority has made necessary regulations called "The Orissa State Legal Services Authority Regulations, 1996" (hereinafter referred to as the said Regulations) as required under Section 29-A of the said Act, for the purpose of giving effect to the provisions of that Act;

And whereas the Applicant has under the said Regulations applied on the 20 for legal aid in connection with (hereinafter referred to as "the said proceeding) which the Government has agreed to grant under the said Regulations through the ** Authority/Committee (hereinafter referred to as "the Authority"/"the Committee").

And whereas under the provisions of the said Regulations, the Applicant has under circumstances mentioned therein to repay to the Authority/Committee for and on behalf of the Government as and by way of reimbursement the amount of costs, charges and expenses incurred in connection with the said proceeding by the Government through the Authority/the Committee for and on behalf of the Applicant as and by way of legal aid under the said Regulations and the applicant is required to execute an Agreement for the purpose in the prescribed form being in fact these presents.

Now this Agreement witnessth and it is hereby agreed and declared by and between the Parties hereto as follows:

- (1) In consideration of the Applicant being granted Legal Aid as aforesaid under the said Regulations in connection with the said proceeding the Applicant both hereby covenant and agree as follows:

- (I) In the event of the applicant succeeding in the said proceeding and the Court passing any decree or order awarding costs in favour of the Applicant or the Court passing any decree or order for payment to the Applicant of any amount whatsoever the Applicant shall repay to the Authority/Committee for and on behalf of the Government as and by way or reimbursement, all costs, charges and expenses incurred by the Government through the Authority/Committee for and on behalf of the Applicant in connection with the said proceeding as and by way of legal aid under the said Regulations.
- (II) The Authority/Committee for and on behalf of the Government may take such action or proceedings as it thinks fit for executing any decree or order passed by the Court in the said proceeding in favour of the applicant and recovering the amount decreed or ordered in the said proceeding to be paid to the applicant and appropriate therefrom the amount of costs, charges and expenses incurred in connection with the said proceeding by the Government through the Authority/Committee for an on behalf of the applicant as and by way of legal aid under the said regulations and the applicant both hereby authorize the Authority/Committee to do so. The applicant shall render to the Authority/Committee all such assistance as may be required by it for the purpose.
- (III) If the applicant fails to repay the Authority/Committee for an on behalf of the Government the amount as aforesaid or any part thereof the same shall be deemed to be arrears of land revenue and the Government and/or Authority/Committee for and on behalf of the Government may without prejudice to any other rights and remedies of the Authority/Committee and the Government, recover the same from the applicant as arrear of land revenue.

2. The government will bear and pay the stamp duty on this agreement.

In witness whereof the applicant has hereto set his hand and the Governor of Orissa has caused to set his hand affixed his official Seal hereto for and on his behalf the day and year first herein above signed and delivered by the within named Shri/Smt/Kum the applicant above-named in the presence of.

- 1.
- 2.

Signed, sealed and delivered by Shri * for and behalf of the Governor of Orissa in the presence of

- 1.
- 2.

FORM D

[(See Regulation 21 (2)]

TO ALL TO WHOM THESE PRESENTS SHALL COME

I son/wife/daughter of agedyears, residing at

SENDING GREETING

Whereas in pursuance of Section 6 of the Legal Services Authorities Act, 1987 the State Government has constituted a body called "The State Legal Services Authority" (hereinafter referred to as the State Authority) for the State of Orissa under the notification of the Government Orissa in the Law Department No.4973-LAP-12/96-Law dated the 11th April 1996,published in the extraordinary issue No. 394 of the Orissa Gazatte, dated the 15th April 1996 as S.R.O. No. 267/96 to exercise the powers and to perform the functions conferred on, or assigned to, a State Authority under the said Act.

And whereas the State Authority has made necessary regulations called "The Orissa State Legal Services Authority Regulations, 1996" (hereinafter referred to as the said Regulations) as required under Section 29-A of the Said Act for the purpose of giving effect to the provision of the Act;

And whereas I have under the said Regulations applied for legal aid in connection with ** (hereinafter referred to as "the said proceedings") which the Authority/Committee* * * on behalf of the Government has agreed to grant under the said regulations (hereinafter referred to as "the Authority"/"the Committee").

And whereas under the provision of the said regulations, the applicant has, under certain circumstances, mentioned therein to repay to the Authority/Committee for and on behalf of the Government as and by way of reimbursement the amount of costs, charges and expenses incurred in connection with such proceedings by the Government through the Authority/Committee for and on behalf of the applicant as and by way of legal aid under the said regulations; .

And whereas as required by the said Regulations by an agreement of even date but executed prior to the execution of these presents and made between myself (hereinafter referred to as "the Applicant") of the one part and the Governer of Orissa exercising the executive power of the Government of the State of Orissa (herein and hereinafter referred to as "the Government") of the other part it has been agreed inter alias that the Authority/Committee for and on behalf of the Government may take such action of proceeding as it thinks firt and executing the decree or order

passed by the Court in the said proceeding in my favour and recovering the amount decreed or ordered in the said proceeding to be paid to me and to appropriate therefrom the amount of costs, charges and expenses incurred in connection with the said proceeding by the Government through the Authority/Committee for and on my behalf as and way of legal aid under the said Regulations and I have thereby authorized the Authority/Committee to do so;

And whereas as per the provisions of the said Regulations the applicant, to whom the Government have agreed to grant legal aid through the Authority/Committee, has to execute an irrevocable Power of Attorney in favour of the Authority/Committee appointing as his/her Attorney inter alias for enabling the Authority/Committee to take such action or proceedings as it thinks fit for executing the decree or order passed by the Court in my favour in the said proceeding and for recovering the amount decreed or ordered in the Said proceeding to be paid to me as aforesaid;

NOW KNOW YE AND THESE PRESENTS WITNESS THAT I..... do hereby irrevocable nominate constitute and appoint the Secretary of the Authority/Committee (hereinafter referred to as "the Attorney") to be my true and lawful Attorney for me and on my behalf and in my name or in the name of the Attorney to do execute and perform the following acts, deeds, matters and things, that is to say-

- (1) to ask, demand, recover and receive from the party who has been decreed or ordered in the said proceeding to pay me the amounts specified therein and upon receipt thereof or any part thereof in my specified therein and upon receipt thereof or any part thereof in my name or in the name of the Attorney as the case may require to make, sign, execute, and deliver such receipts, releases or other discharges for the same, respectively as the Attorney shall think it or be advised;
- (2) to commence, prosecute and enforce, proceedings for realization of the amount of any6 decree or order passed in the said proceeding in my favour or whereunder any amount is decreed or ordered to be paid to me including applications for execution of the said decree or order and for the purpose to sign, declare and affirm all applications. petitions, affidavits that may be necessary and appoint advocates on such terms and conditions including fees payable to them as the Attorney shall think fit and to sign Vakalatnama and necessary Authority in their favour and from time to time to discharge them and to appoint or employ others in their place and stead;
- (3) to compromise, refer to arbitration, abandon or submit to judgment in any such proceedings specified in Clause (20 above);
- (4) to concur in doing any of the acts, deeds, matters and things herein before mentioned in conjunction with any other person or persons interested in the premises.

IN GENERAL to do all other acts, deeds, matters and things whatsoever or abollt the recovery or realization of the amount which has been decreed ort ordered to be paid to me in the said proceeding as empty and effectually to all intents and purposes as I could do my own proper person if these presents had not been executed.

AND I HEREBY RATIFY AND CONFIRM AND AGREE TO RATIFYAND CONFIRM whatsoever the Attorney shall do or purport to do by virtue of these presents.

AND I DECLARE that the power hereby created shall be irrevocable till the Authority/Committee fori and on behalf of the Government is repaid or realize the said amount of costs, charges and expenses incurred in connection with the said proceeding by the government through the Authority/Committee for and on my behalf as and by way of legal aid under the said Regulations.

IN WITNESS WHEREOF 1..... have hereunto set my hand this day of in the year Two thousand and signed and delivered by the within name in the presence of:

- (1)
- (2)

9. Odisha State Commission for Women

9.1 The Orissa State Commission for Women Act, 1993

9.2 The Orissa State Commission for Women Rules, 2006

The Orissa Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 1198 CUTTACK, FRIDAY, OCTOBER 7, 1994 /ASVINA 15, 1916

LAW DEPARTMENT

NOTIFICATION

The 7th October 1994

No. 13850/Legis. - The following Act of the Orissa Legislative Assembly having been assented to by the President on the 24th September, 1994 is hereby published for general information.

ORISSA ACT 19 OF 1994

THE ORISSA STATE COMMISSION FOR WOMEN ACT, 1993

AN ACT TO CONSTITUTE A STATE COMMISSION FOR WOMEN AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

BE it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India, as follows :-

CHAPTER - I

PRELIMINARY

- | | |
|--------------------------------------|--|
| Short title, extend and commencement | 1. (1) This Act may be called the Orissa State Commission for Women Act, 1993.
(2) It extends to the whole of the State of Orissa.
(3) It shall come into force on such date as the State Government may, by notification, appoint. |
| Definitions | 2. In this Act, unless the context otherwise requires -
(a) "Commission" means the State Commission for women constituted under section 3;
(b) "Member" means a Member of the Commission;
(c) "Prescribed" means prescribed by rules made under this Act. |

CHAPTER - II

THE STATE COMMISSION FOR WOMEN

- | | |
|--|--|
| Constitution of State Commission for Women | 3. (1) The State Government shall constitute a body to be known as the State Commission for Women to exercise the powers conferred on, and to perform the functions assigned to it under this Act. |
|--|--|

- (2) The Commission shall consist of -
- (a) a Chairperson, who is an eminent social worker or a professional committed to the cause of women, to be nominated by the State Government;
 - (b) six members to be nominated by the State Government from amongst persons of ability, integrity and standing of whom -
 - (i) one shall be an official,
 - (ii) one shall be an eminent advocate,
 - (iii) two shall be social workers of repute, and
 - (iv) two shall be experts in education and health;

Provided that at least one Member each shall be from amongst persons belonging to the Scheduled Castes and the Scheduled Tribes respectively.

- (3) An officer not less than the rank of a Deputy Secretary to the Government of Orissa in charge of Women's Welfare shall be the Convenor-Secretary of the Commission whose duty shall be to facilitate co-ordination between the Commission and the Government in the activities and policies relating to Women's Welfare and participation in the development of the State.

Terms of office and conditions of service of Chairperson and Members.

4. (1) The Chairperson and every Member shall hold office for such period, not exceeding three years, as may be specified by the State Government in this behalf.
- (2) The Chairperson or a Member (other than the official Member) may, by writing and addressed to the State Government, resign from the office of Chairperson or, as the case may be, of the Member at any time.
- (3) The State Government shall remove a person from the office of Chairperson or a Member referred to in sub-section (2) if that person -
- (a) becomes an undischarged insolvent;
 - (b) gets convicted and sentenced to imprisonment for an offence involving moral turpitude;
 - (c) becomes of unsound mind and stands so declared by a competent court;
 - (d) refuses to act or becomes incapable of acting;
 - (e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or
 - (f) in the opinion of the State Government, has so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the public interest;

Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

- (4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.
- (5) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed.

5. (1) The State Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

- (2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.
- Salaries and allowances to be paid out of grants. 6. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (1) of section 11.
- Vacancies, etc. not to invalidate proceedings of the Commission 7. No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.
- Committees 8. (1) The Commission may appoint such committees as may be necessary for dealing with such special issues as may be taken up by the Commission from time to time.
- (2) The commission shall have the power to co-opt as members of any committee appointed under sub-section (1) such number of persons, who are not Members of the Commission, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.
- (3) The persons so co-opted shall be entitled to receive such allowances for attending the meetings of the committee as may be prescribed.
- Procedure to be regulated by Commission 9. (1) The Commission or a committee thereof shall meet as and when necessary and shall meet at such time and place as the Chairperson may think fit.
- (2) The commission shall regulate its own procedure and the procedure of the committees thereof.
- (3) All orders and decisions of the Commission shall be authenticated by the Convenor-Secretary or any other officer of the Commission duly authorised by the Convenor-Secretary in this behalf.

CHAPTER - III

FUNCTIONS OF THE COMMISSION

- Functions of Commission 10. (1) The Commission shall perform all or any of the following functions namely:-
- (a) make indepth studies on -
- (i) the economic, educational and health situation of the women of the State, which particular emphasis on the tribal districts and areas which are under-developed with respect to women's literacy, mortality and economic development.
- (ii) condition in which women work in factories, establishments construction sites and other similar situations,
- and recommend to the State Government on the basis of specific reports on improving the status of women in the said areas;
- (b) compile information, from time to time, on instances of all offences against women in the State, or in selected areas, including cases related to marriage and dowry, rape, kidnapping, criminal abduction, eve-teasing, immoral trafficking in women and cases of medical negligence in causing delivery or sterilisation or medical intervention that relates to child bearing or child birth

- (c) will co-ordinate with the State Cell and District Cells for atrocities against women, if any for mobilisation of public opinion in the State as a whole or in specific areas which would help in speedy reporting and detecting of offences of such atrocities and mobilisation or public opinion against the offenders.
- (d) *received complaints on* -
- (i) atrocities on women and offences against women,
 - (ii) deprivation of women of their rights relating to minimum wages basic health and maternity rights,
 - (iii) non-compliance of policy decisions of the Government relating to women,
 - (iv) rehabilitation of deserted and destitute women and women forced into prostitution,
 - (v) atrocities on women in custody, and take up with authorities concerned for appropriate remedial measures.
- (e) assist, train and orient the non-Government organisation in the State in legal counselling of poor women and enabling such women to get legal aid,
- (f) inspect or cause to be inspected, a jail remand home, women's institution or other place of custody where women are kept as prisoners or otherwise and take up with the concerned authorities for remedial action, if found necessary,
- (g) perform functions in relation to any other matter which may be referred to it by the State Government.
- (2) The State Government shall cause all the recommendations or reports, or any part thereof, as may be presented to it by the Commission under sub-section (1), which relate to any matter with which the State Government is concerned, to be laid before the Legislature of the State alongwith a memorandum explaining the action taken or proposed to be taken on the recommendations of the Commission and the reasons for the non-acceptance, if any of such recommendations.
- (3) The Commission shall while investigating any matter referred to in clause (a) or clause (d) of sub-section (1) having 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 from any part of India and examining him on oath;
 - (b) requiring the discovery and production of any document;
 - (c) receiving evidence on affidavits;
 - (d) requisitioning any public record or copy thereof from any court or office;
 - (e) issuing commissions for the examination of witness and documents; and
 - (f) any other matter which may be prescribed.

CHAPTER - IV

FINANCE ACCOUNTS AND AUDIT

11. (1) The State Government shall, after due appropriation made by the Legislative Assembly by law in this behalf, pay to the Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purpose of this Act.

- (2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).
- Accounts and Audit 12. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Governments in consultation with the Accountant-General, Orissa.
- (2) The Accounts of the Commission shall be audited by the Accountant-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Accountant-General.
- (3) The Accountant-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Accountant-General generally has in connection with the audit of Government accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.
- (4) The accounts of the Commission, as certified by the Accountant-General or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the State Government by the Commission.
- Annual Report 13. The commission shall prepare, in such form and at such time, for each financial year as may be prescribed, its annual report giving a full account of its activities during the previous financial year and forward a copy thereof to the State Government.
- Annual Report and Audit report to be laid 14. The State Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein in so far as they relate to the State Government and the reasons for the non-acceptance, if any, of any of such recommendations and the audit report to be laid, as soon as may be after the reports are received, before the Legislative Assembly.

CHAPTER - V MISCELLANEOUS

- Chairperson, Members and staff of Commission to the Public Servants. 15. The Chairperson, the Members, Officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.
- State Government to consult Commission, 16. The State Government shall consult the Commission on all major policy matters affecting women.
- Power to make rules. 17. (1) The State Government may, by notification, make rules for carrying 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) salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and Members under sub-section (5) of section 4 and of officers and other employees under sub-section (2) of section 5;
- (b) allowances for attending the meetings of the committee by the co-opted persons under sub-section (3) of section 8;
- (c) other matters under clause (f) of sub-section (3) of section 10;
- (d) the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 12;
- (e) the form in, and the time at which, the annual report shall be prepared under section 13;
- (f) any other matter which is required to be, or may be, prescribed.

By order of the Governor
P.K. PANIGRAHI
Secretary to Government

The Orissa Gazette

EXTRAORDINARY PUBLISHED BY AUTHORITY

No. 99 CUTTACK, MONDAY, JANUARY 15, 1007 /PAUSA 25, 1928

WOMEN & CHILD DEVELOPMENT DEPARTMENT

NOTIFICATION

The 26th December 2006

No. 26133-IV-WP(SCW)-3/2006-WCD - In exercise of the powers conferred by Section 17 of the Orissa State Commission for Women Act, 199 (Orissa Act 19 of 1994), the State Government do hereby make the following rules regulating the salaries, allowances, other terms and conditions of services of the Chairperson and Members of the Orissa State Commission for Women and other matters, namely :-

SHORT TITLE AND COMMENCEMENT

1. (1) These rules may be called The Orissa State Commission for Women Rules, 2006
- (2) They shall come into force from the date of their publication in the *Orissa Gazette*

DEFINITIONS

2. (1) In these rules, unless the context otherwise requires,-
 - (a) "Act" means The Orissa State Commission for Women Act, 1993;
 - (b) "Chairperson" means the Chairperson of the Commission nominated under clause (a) of sub-section (2) of Section 3 of the Act;
 - (c) "Financial year" means the year begins from the 1st April to the 31st March of the succeeding calendar year;
 - (d) "Form" means form appended to these rules;
 - (e) "Government" means Government of Orissa;
 - (f) "Secretary" means Convenor-Secretary of State Commission for Women appointed under sub-section (3) of Section 3 of the Act;
 - (g) "Section" means Section of the Act.
- (2) Words and expressions used in these rules but not defined, unless the context otherwise requires, shall have the same meanings as respectively assigned to them in the Act.

HEADQUARTERS OF THE COMMISSION

3. The Headquarters of the Commission shall be located at Bhubaneswar.

TERMS OF OFFICE

4. (1) The Chairperson or Member shall hold office as such for a period of three years from the date of issue of notification under sub-section (1) of Section 4 until she/he attains the age

of sixty-five years or reconstitution of the Commission whichever is earlier.

- (2) A person who held the office of the Chairperson or member shall be eligible for re-nomination.
- (3) If a vacancy occurs in the office of the Chairperson by reason of removal, death or resignation or otherwise, the official Member shall act as the Chairperson until the vacancy is filled up by fresh nomination by the Government and shall exercise all the powers and perform all the functions of the Chairperson.

DUTIES OF THE MEMBERS

5. The Members shall act under the overall direction of the chairperson in the administrative side and shall attend to the following duties, namely :-
 - (i) they shall attend the meeting of the Commission as and when called for by the Commission;
 - (ii) they shall head such committees as may be formed by the Chairperson;
 - (iii) they shall conduct spot inspection in important cases as and when required by the Chairperson;
 - (iv) they shall take up hearing of all important cases, which are entrusted to them by the Chairperson;
 - (v) they shall participate in the awareness camps organised in different districts;
 - (vi) they shall inspect the jails, women institutions or other places of custody, where women are kept as prisoners or otherwise as and when required to do so by the Chairperson; and
 - (vii) they shall carry out such other functions as assigned to them from time to time by the Chairperson.

SALARIES AND ALLOWANCES

6. The Chairperson shall get the following monthly entitlements:-
 - (i) If the Chairperson is a Government servant on deputation he will get his grade pay.
 - (ii) If the Chairperson is a retired Government servant, he will be entitled to get last pay minus pension and pension equivalent.
 - (iii) If the Chairperson and others happen to be non-officials, their monthly honorarium will be determined by Government from time to time.
7. The Chairperson and other Members shall be entitled to leave as under -
 - (a) If the Chairperson and Members are Government servant on deputation they shall be entitled to leave as admissible to their Government counterparts.
 - (b) Others - Only casual leave as admissible to their Government counterparts.
8. (1) The Members shall undertake tour on the written permission of the Chairperson. They shall be entitled to draw travelling allowances and daily allowances as admissible to Grade-II Officers of the Government.
 - (2) As and when Chairperson and Members are required to go outside the State on tour for the work of the Commission with prior approval of Government, they shall be entitled for Government accommodation on payment of usual rent. In case, Government accommodation is not available the Chairperson and Members shall be entitled to accommodation elsewhere and conveyance hiring charges as admissible to First and Second Grade Government servant respectively.

RESIDENTIAL ACCOMMODATION

9. (i) The Chairperson and Member shall reside at the Headquarters of the Commission and shall be entitled to Government accommodation on payment of usual rent.
- (ii) If the Chairperson and Members are not provided with or do not avail of the Government accommodation, they shall be paid house rent allowance at the rate admissible in the State Headquarters.

FACILITIES FOR MEDICAL TREATMENT

10. The Chairperson and Members shall be entitled to reimbursement of the cost of medicine as admissible to Government servants.

PENSION

11. No pension shall be payable to the Chairperson or Members for holding the posts as such except the Government servant on deputation. Provided that a retired Government employee if nominated as Chairperson or Member his/her term of office shall be treated as re-employment and regulated by provisions laid down in 89 0 O.C.S. (Pension) Rules, 1992.
12. (i) The State Government may sanction such post as deemed necessary by following an yardstick and those posts will be filled up either by deputation from Central/State Government or by open market recruitment.
- (ii) The officers and staff who come on deputation to the Commission shall enjoy the same benefits, which they were enjoying in the parent Department prior to their deputation. They shall exercise such powers as may be assigned by the Commission under the provision of the Act.
13. The Secretary of the Commission shall function as Head of the Office under overall supervision and direction of the Chairperson and he will exercise the financial powers as per Delegation of Financial Power Rules of the Government.
14. (i) Every co-opted Member of the Committee if she/he is in service of State Government or in an institution funded by the State Government shall be entitled to an allowance of Rs.100 for attendance of each day of the meeting.
- (ii) The out station co-opted Member if he/she is a Government servant or an institution funded by the State Government shall get Rs.100 as sitting allowance for attendance of each day of the meeting in addition to normal T.A. and D.A. as admissible to his Grade.
- (iii) Other outstation Members will receive Rs.100 as sitting allowance for attendance of each day of the meeting in addition to T.A./D.A. as admissible to Second Grade Officers.

ACCOUNTS OF THE COMMISSION

15. (1) The annual statement of accounts of the Commission for every financial year shall be prepared by the Secretary in Form-A.
- (2) The annual statement of accounts duly approved by the Commission shall be submitted by the Secretary to the State Government in Women & Child Development Department by the 30th June of the following year to which the accounts relate.
- (3) The Commission shall forward the State Government first quarterly review of the progress of expenditure incurred and expenditure likely to be incurred in the remaining quarters of the financial year as and when called for by the State Government.
- (4) The Secretary to Commission shall be responsible for the maintenance of the accounts of the Commission, the composition of the financial statement and returns and shall ensure that all accounts, books, connected vouchers and other documents and papers of the

Commission required by the Audit Officer for the purpose of auditing the accounts of the Commission are placed at the disposal of that officer.

- (5) The annual statement of the accounts shall be signed and authenticated by the Secretary and the Chairperson.
- (6) The account of the Commission shall be subject to audit by the Accountant-General (A. & E.), Orissa. The Commission shall appoint a registered Chartered Accountant on contract basis to audit the accounts of the Commission on or before the 30th June following the year to which the accounts relate.
- (7) The Commission shall, within ninety days of the receipt of the audit report of the Chartered Accountant, remedy the defect or irregularity, if any, pointed out therein and report the same to the State Government.

ANNUAL REPORT OF THE COMMISSION

16. (1) The Secretary shall prepare the annual report referred to in Section 13 in Form-B on or before the 31st July following the financial year to which the report relates.
- (2) The annual report referred to sub-rule (1) after approval of the Commission shall be authenticated by the Secretary.
- (3) Copies of authenticated report shall be submitted by the Secretary to the State Government by the end of August following the year to which the report relates to enable the State Government to take action under Section 14.

FORM - A

[See Rule 15(1)]

ACCOUNTS OF THE COMMISSION

RECEIPT AND PAYMENT ACCOUNT OF THE STATE COMMISSION FOR WOMEN AND THE YEAR ENDING 31ST MARCH

Receipts	Plan	Non-Plan	Total Amount	Payments	Plan	Non-Plan	Total Amount
1. Opening Balance							
(i) Cash in Hand							
(ii) Cash at Bank							
2. Grant-in-aid for the W.&CD. Department							
Recurring				Recurring Expenditure			
Non-Recurring				(a) Establishment Charges			
3. Revenue received by the Commission				1. Salaries (Chairperson/Members of the Commission, including Honorarium Allowances to co-opted Members			
Plan-Recurring				2. Salaries (Officers and Establishment)			
(a) Investments				3. Wages			
1. Face value of investments encashed				4. Payment for professional and specialists.			
2. Interest on Investments				5. Travel Expenses			
3. Interest on Bank Account and short term Deposits.							
TOTAL							

Receipts	Plan	Non-Plan	Total Amount	Payments	Plan	Non-Plan	Total Amount
B/F (b) Revenue Receipts 1. Miscellaneous Receipts 2. Fees if any, charged by the Commission 3. Sales of publications 4. Interest Receipts for Advances to Employees (c) Debt/Deposit Receipts (i) Recovery of contingent Advance to State Public Works Department Advance to Director, General Supply and Disposal. Advance to Suppliers Other Advances				B/F (b) Others Establishment Charges 1. Office Expenses 2. Rent, Rates & Taxes 3. Publications 4. Advertisement and Publicity 5. Hospitality Expenses 6. Repairs/maintenance 7. Furniture and Fixtures 8. Machinery and equipment 9. Motor Vehicles 10. Maintenance of Vehicles 11. Petrol, Oil and Lubricants 12. Conference and Seminars 13. Telephone Charges 14. Other Charges 15. Litigation 16. Audit Fee			
TOTAL							

Receipts	Plan	Non-Plan	Total Amount	Payments	Plan	Non-Plan	Total Amount
B/F (i) Other Deposits Security Deposit, Earnest Money Deposit (d) <i>Remittance Receipts</i> Licence Fee Income Tax State Government Health Scheme Postal Life Insurance State Government Employees Group Insurance Scheme None-recurring				B/F (c) Other Contributions 1. Deposit-linked Insurance Scheme (d) Assistance to other organisations 1. Special Studies 2. Promotional and Educational Research (e) Investment 1. Investments (f) Contingent Advance 1. Advance to State Public Works Department 2. Advance to Director, General Supply and Disposal 3. Advance to Suppliers 4. Other Advances			
TOTAL							

Receipts	Plan	Non-Plan	Total Amount	Payments	Plan	Non-Plan	Total Amount
B/F				B/F			
				(g) Other Adjustments (Remittances)			
				1. Licence Fee			
				2. Income Tax			
				3. State Government Health Scheme			
				4. Postal Life Insurance			
				5. State Government Employment Insurance Scheme			
				ii. Non-Recurring			
				(a) Other Establishment Charges			
				1. Land			
				2. Buildings			
				3. Furniture and Fixtures			
				4. Machinery and equipment			
				5. Motor Vehicles			
				6. Publication			
TOTAL							

Receipts	Plan	Non-Plan	Total Amount	Payments	Plan	Non-Plan	Total Amount
B/F				B/F (b) Deposits 1. Security Deposit 2. Earnest Money Deposit (c) Closing Cash Balance Cash in Hand Cash at Bank			
TOTAL							

Signature of Secretary to Commission
(Seal)

FORM B

[See Rule 16 (1)]

Annual Report for the financial year April 20 20

1. Introduction
2. Constitution of Commission including charges therein
3. Meetings of the Commission
4. Appointment of Committees
5. Meetings of the Committees
6. Brief report on -
 - (a) the investigation and examination of the safeguards provided for women under the Constitution and other laws and the recommendations thereon;
 - (b) the review of the existing provisions of the Constitution and other laws effecting women and recommendations as to amendments thereto and suggest legislative measures;
 - (c) violation of provisions of the Constitution, other laws, deprivation of women's rights/ non-compliance of policy decisions, guidelines, instructions, etc. taken up with the appropriate authorities;
 - (d) special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and recommendations as to the strategy for their removal;
 - (e) promotional and education research undertaken by the Commission for ensuring representation of women in all spheres;
 - (f) inspection of jails; remand homes, women institutions or other similar places of custody for women and remedial action taken thereon;
 - (g) funding of litigation involving issues effecting a large body of women;
 - (h) participation in and advice tendered on the planning process of socio-economic development of women;
 - (i) evaluation on the progress of development on women in the State;
 - (j) evaluation of steps taken in the State on progressive economic independence for women;
 - (k) evaluation of steps taken in the State for increasing general awareness and need for attitudinal changes towards women and female children;
 - (l) periodical reports to Government on any matter pertaining to women and in particular various difficulties under which the women toil;
 - (m) a report on other matters referred to the Commission by the State Government.

By order of the Governor
DR. MONA SHARMA
Commissioner-cum-Secretary to Government

10. Witch Hunting

10.1 The Odisha Prevention of Witch Hunting Bill, 2013

The Orissa Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 1669 CUTTACK, THURSDAY, AUGUST 29, 2013 /BHADRA 7, 1935

SECRETARIAT
OF
THE ODISHA LEGISLATIVE ASSEMBLY
NOTIFICATION

The 29th August, 2013

No. 9543/L.A.,-The following Bill which has been introduced in the Odisha Legislative Assembly on the 26th August, 2013 is herewith published under Rule 68 of the Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly for general information.

THE ODISHA PREVENTION OF WITCH - HUNTING BILL, 2013

A

BILL

TO PROVIDE FOR EFFECTIVE MEASURES TO TACKLE THE MENACE OF WITCH HUNTING AND TO PREVENT THE PRACTICES OF WITCH CRAFT IN THE STATE OF ODISHA AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

BE it enacted by the Legislature of the State of Odisha in the Sixty-fourth Year of the Republic of India as follows:-

Short title,
extent and
commencement

1. (1) This Act may be called the Odisha Prevention of Witch-hunting Act, 2013.
- (2) It extends to the whole of the State of Odisha.
- (3) It shall come into force on such date as the State Government may, by notification, appoint.

Definitions.

2. In this Act, unless the context otherwise requires, -
 - (a) "Witch" means a woman, locally known as "Dahani" "Dayan" or otherwise, who has been identified by any person or persons believing her to be in possession of, or is having, any evil power for causing any harm to any person or his property;
 - (b) "Witch craft" means use of supernatural or magical power with evil intention to call up spirit or cast spell or discover the whereabouts of stolen goods and includes such other similar practices which are locally known as 'Guni', 'Jhada

phunka', 'Cot Bidya', 'Bata Bidya', 'Kula Bidya', 'Nakha Darpana' or by any other name;

- (c) "Witch-doctor" means a person who claims to be a Gunia, Tantrik, Kalisi or by any other name called and claims or is believed to be having supernatural or magical power to control or to cure a witch or by performing ritual to free a woman from evil spirit or bless a woman with a child or performs any ritual on behalf of any person with an intention to harm a person;
- (d) "Witch- hunting" means any act of omission, commission or conduct on the part of any person,-
- (i) identifying, accusing or defaming a woman as a witch, or
- (ii) harassing, harming or injuring such woman whether mentally or physically or damaging her property.

Prohibition of 3. No person shall commit witch-hunting or exercise or practise witch craft with which-hunting and practising witch craft. intent to cause harm or injury to another person.

Penalty for 4. (1) Whoever, except in the cases provided for in sub-section (2), commits witch hunting. witch hunting, or abets, or provokes for witch hunting, shall be punishable with imprisonment for a term which may extend to three years or with fine but which shall not be less than one thousand rupees or with both.

(2) Whoever forces any woman, branding her as witch, to drink or eat any inedible substance or any other obnoxious substance or parade her with painted face or body or commits any similar acts which is derogatory to human dignity or displaced from her house, shall be punishable with imprisonment for a term which shall not be less than one year but may extend to five years and with fine.

Penalty for 5. Whoever practises witch craft or other similar practices with intent to cause harm witch craft. or injury to any person shall be punishable with imprisonment or a term which shall not be less than one year but which may extend to three years or with fine which shall not be less than five thousand rupees or with both.

Penalty for 6. Whoever performs any practice as witch doctor knowingly that such practices witch- doctor. shall cause harm or injury to the person upon whom such practices is being performed, shall be punished with imprisonment for a term which shall not be less than one year but may extend to three years or with fine which shall not be less than five thousand rupees or with both.

Enhancement 7. Whoever, having already been convicted of an offence punishable under this Act, of the punishment. is convicted for the second offence or any offence subsequent to second offence, shall be punishable with imprisonment for a term which shall not be less than three years but may extend to seven years and with fine which shall not be less than ten thousand rupees.

Act not in 8. The provisions of this Act shall be in addition to, and not in derogation of, the derogation of any other law. provisions of any other law for the time being in force.

Order for 9. (1) Where a sentence of fine is imposed under sections 4, 5, 6 and 7 the Court compensation shall, in fixing the amount of fine, take into consideration the physical and mental damage caused to the victim including any cost of treatment and also damage, if any, caused to the property.

- (2) When a Court imposes sentence of fine, the court shall while passing judgment, order the whole or part of the fine recovered to be awarded as compensation to the victim.

Offence to be cognizable and non-bailable. 10. Every offence under this Act shall be cognizable and non-bailable.

Preventive action to be taken by the State Government 11. The State Government may make one or more schemes to conduct awareness programme on blind belief and educate people about the absurd concept of evil spirit, witch craft and for such other matters as the State Government may deem proper.

STATEMENT OF OBJECTS AND REASONS

There are complaints/reports expressing grave concern over growing and frequent barbaric murder of women branded as "Witch" and other persons practising similar act. The age old superstition of Witch-hunting and other similar practices prevalent in the society are curse to society and humanity. At present, there is no penal provision in law to prohibit or punish the accused of Witch-hunting and other similar practices. The proposed Legislation aims at prohibiting Witch-hunting and other similar practices thereto helping in tackling the evil consequences and in curbing crimes. The penal provisions of the proposed Legislation includes Witch-hunting, branding a woman as Witch and other similar practices causing harm or injury to any person and who performs any practice as Witch doctor. Penal provision has also been proposed for repeated offence.

The penal provisions of the proposed Legislation also provide that every offence under it shall be cognizable and non-bailable. It is also proposed that the State Government may make one or more schemes to conduct awareness programme on superstitions and other related matters as it may deem proper. Resultantly, the proposed Legislation shall help in achieving security and dignity of women of State.

The Bill seeks to achieve the above objections.

NAVEEN PATNAIK
Member-in-Charge

A.K. SARANGI
Secretary
Odisha Legislative Assembly

Section - II

11. Victim Compensation

11.1 The Odisha Victim Compensation Scheme, 2012

11.2 The Odisha Victim Compensation (Amendment) Scheme, 2013

THE ODISHA VICTIM COMPENSATION SCHEME, 2012

Home Department

NOTIFICATION

The 12th July 2012

(Published in the Odisha Gazette on the 25th July 2012)

No. 27466-CP / CR 07 / 2012 - In pursuance of section 357-A of the Code of Criminal Procedure, 1973 (2 of 1974), the State Government in co-ordination with the Central Government do hereby make the following scheme for providing funds for the purpose of compensation to the victims who have suffered loss or injury as a result of the crime and require rehabilitation, namely :-

1. **Short Title and Commencement :-**

- (a) This scheme may be called "**The Odisha Victim Compensation Scheme-2012.**"
- (b) It shall come into force on the date of its publication in the Odisha Gazette.

2. **Definitions :-** In this scheme, unless the context otherwise requires,

- (a) "Act means the Code of Criminal Procedure, 1973.
- (b) "District Legal Services Authority" and "State Legal Services Authority" shall respectively mean a District Legal services Authority and the State Legal Services Authority constituted under section 9 and section 6 of the Legal Services Authorities Act, 1987 respectively.
- (c) "Fund" means the Victim Compensation Fund.
- (d) "Schedule" means the Schedule appended to this scheme.
- (e) "State Government" means the Government of Odisha.
- (f) "Loss or injury" means as defined in the Schedule and
- (g) "Victim" means a person who himself/herself suffered loss or injury as a result of crime and requires rehabilitation and in case of his/her death also his/her dependents.

Provided where the victim is a minor, his/her parents would be dependants in case they are found to have been affected by the crime or in case the perpetration of crime has left a scar on their dependant family members.

3. **Objective of the Scheme:**

The Scheme aims as providing:

- (a) Financial assistance to the victim; and
- (b) Support services such as shelter, counseling, medical aid, legal assistance, education and vocational training depending upon the needs of the victim.

4. **Victim Compensation Fund :**

- (a) There shall be constituted a Fund namely Victim Compensation Fund from and out of which the amount of compensation shall be paid to the victim or his/her dependants, as the case may be.
- (b) The Fund shall be operated by the Secretary, State Legal Services Authority.
- (c) There shall be credited to the fund -
 - (i) Money out of budget provision made by the State Government for the purpose of the Scheme;

- (ii) All grants, subscriptions, donations and gifts made by the Central Government, State Government, any local authority or anybody whether incorporated or not or any person and
- (iii) All other sums received by or on behalf of the victims compensation from any source whatsoever including in compliance to any court order.

5. Target Group / Beneficiaries :

The Scheme shall cover the victims and in case of death of the victim, his/her dependants or the member/members of the family of victim who have suffered the atrocity resulting from crime or by the crime, the member/members who have been visited with a scar and would be eligible for compensation as per the compensation order.

6. Assistance under the Scheme :

- a) Under this scheme, the victim or dependants, as the case may be, shall be entitled to financial assistance and restorative support services.
- b) Assistance under the scheme shall be available in respect of each of the cases where the F.I.R. is lodged.

7. Eligibility for Compensation : The victim satisfying the following criteria shall be eligible for compensation:

- a) He/She has not been compensated for the loss or injury under any other scheme of the Central or the State Government or insurance Company or any other institution. The victim shall inform to the authority the details of claims for compensation made under any other scheme or from any other source. The victim will be free to choose another scheme of Government, if the same is more beneficial to him or her. He/She cannot claim both, or part benefit from one scheme and part from another.
- b) Loss or injury sustained by the victim have caused substantial loss to the income of the family making it difficult to live as before without the financial aid or has affected his/her dignity or personality or the medical treatment of mental/physical injury should have caused financial stress for the family.
- c) The victim shall co-operate with the police and prosecution from the stage of investigation till conclusion of trial of the cause.

8. Authorities responsible for implementation of the Scheme:

(A) District Legal Service Authority

A District Legal Services Authority in every district will have the exclusive jurisdiction to deal with applications for assistance received under the Scheme in that district.

(B) Functions of the District Legal Services Authority :

The District Legal Services Authority shall perform the following functions:-

- (a) To consider the claims and provide financial assistance and support services, as the case may be in accordance with the procedure prescribed under the scheme.
- (b) To arrange for psychological, medical and legal assistance to the affected persons.
- (c) To arrange for counseling support to the affected woman including counseling of the spouse in case the affected woman is married.
- (d) To arrange shelter for the affected woman for such period as may be required.
- (e) To arrange for education or vocational/professional training as the case may be for the

affected woman under the ongoing schemes/programmes should she require such a support for rehabilitation.

- (f) Issue directions to the appropriate authorities to provide protection to the affected persons whenever deemed necessary.
- (g) Whenever a recommendation is made by the Court or an application is made by any victim under sub-section 4 of section 357-A of the Act to the District Legal Service Authority, the District Legal Service Authority shall examine the case and shall verify the contents of the claim with regard to the loss or injury caused to the claimant and also may call for any other relevant information necessary for consideration of the claim from the concerned. After verifying the claim, the District Legal Service Authority will make recommendations for compensation.
- (h) (*) The District Legal Service Authority shall decide the quantum of compensation to be awarded to the victim on the basis of loss caused to the victim, medical expenses to be incurred on treatment, minimum sustenance amount required for rehabilitation including such incidental charges, as funeral expenses etc. The compensation may vary from case to case depending on fact of each case.
- (i) The quantum of compensation to be awarded to a victim shall not exceed the maximum limit as per the Schedule.
- (j) (**) The amount of compensation as decided by the District Legal Service Authority, in accordance with the schedule shall be disbursed to the victim from the Fund.

9. Procedure for grant of compensation :

- (a) Whenever a recommendation is made by the Court or an application is made by any victim under sub section (4) of section 357-A of the Act to the District Legal Service Authority, the District Legal Service Authority shall examine the case and verify the contents of the claim with regard to the loss or injury caused to victim and arising out of the reported criminal activity and may call for any other relevant information necessary in order to determine genuineness. After verifying the claim, the District Legal Service Authority shall after due enquiry award compensation within two months, in accordance with provisions of this scheme.
- (b) Compensation under this Scheme shall be paid subject to the condition that if the trial court while passing judgement at later date, orders the accused persons to pay any amount by way of compensation under sub-section (3) of section 357 of the Act, the victim shall remit an amount ordered equal to the amount of compensation, or the amount ordered to be paid under the said sub-section (3) of section 357 of the Act, whichever is less. An undertaking to this effect shall be given by the victim before the disbursement of the compensation amount.
- (c) The District Legal Service Authority shall decide the quantum of compensation to be awarded to the victim on the basis of loss caused to the victim, medical expenses to be incurred on treatment, minimum sustenance amount required for rehabilitation including such incidental charges as funeral expenses etc. The compensation may vary from case to case depending on fact of each case subject to the maximum limit as given in the Schedule.
- (d) The quantum of compensation to be awarded under the Scheme shall be disbursed to the victim or his dependents as the case may be, from the Fund. The quantum of compensation to be awarded to a victim shall not exceed from the maximum limit as specified in the Schedule.

(*) & (**) Substituted vide Home Deptt. Notification No. 21390 dated 13.06.2013.

- (e) Compensation received by the victim from the State in relation to the crime in question, namely, insurance, ex-gratia and/or payment received under any other Act or State-run scheme or Central-run scheme, shall be considered as part of the compensation amount under the Scheme and if the eligible compensation amount exceeds the payments received by the victim from above sources mentioned above, the balance amount shall be paid out of the Fund. The quantum of compensation to be awarded to a victim shall not exceed the maximum limit as specified in the Schedule.
- (f) The victims of cases covered under the Motor Vehicle Act, 1988 (59 of 1988) wherein compensation awarded by the Motor Accident Claims Tribunal or under the provisions of the Act, shall not be covered under the Scheme.
- (g) The cases covered under SC & ST (POA) Act and P.C.R. Act, 1955 shall not be covered under the Scheme.
- (h) (*) Deleted.
- (i) The compensation awarded shall be paid in two phases, first half being within any time before commencement of trial and the rest half on conclusion of trial.
- (j) The District Legal Services Authority, to alleviate the suffering of the victim, may order for immediate first and facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer-in-charge of the police station or Magistrate of the area concerned, or any other interim relief as it may deem fit.
- (k) The payment from Victim Compensation Fund will be made by Account Payee Cheque or electronic money transfer to the Account of the payee.
- (l) (**) Any compensation awarded by the order of Special Court under Sub-Section (8) of Section 33 of the Protection of Children from Sexual Offence Act, 2012 shall be paid from the Scheme.

10. Limitations :

No claim made by the victim or his dependents under sub section 4 of section 357A of the Act shall be entertained after a period of twelve months from the date of the crime.

11. Appeal :

Any victim aggrieved of the denial of compensation by the District Legal Service Authority may file an appeal before the State Legal Service Authority within a period of ninety days:

Provided that the State Legal Services Authority, if satisfied, for the reasons to be recorded in writing, may condone the delay in filing the appeal.

Schedule

Sl.No.	Particular of loss or Injury	Maximum limit of Compensation (in rupees)
1.	Loss of life	Earning member Rs.1,50,000/- Non earning member Rs.75,000/-
2.	Loss of any limb or part of body resulting 80% or above disability (including Acid Attack)	Earning member Rs.1,00,000/- Non earning member Rs.50,000/-
3.	Loss of any limb or part of body resulting disability of 40% & above but below 80% (including Acid Attack)	Rs.40,000/-
4.	Loss of any limb or part of body resulting below 40% disability.	Rs.10,000/-
5.	Loss or injury causing severe mental agony to women and child victims in case like Human Trafficking	Rs.10,000/-
6.	Simple injury to Child victim.	Rs.10,000/-
7.(*)	Rape	Rs.1,50,000/-
8.(**)	Penetrative Sexual Assault and Aggravated Penetrative Sexual Assault in case of child victims	Rs.1,50,000/-
9.(***)	Sexual Assault and Aggravated Sexual Assault in case of child victims	Rs.50,000/-
10.(****)	Sexual harassment of child and using child for pornographic purposes	Rs.20,000/-

(* Inserted vide Home Deptt. Notification No. 49915 dtd. 27.12.2012 published in Odisha Gazette on 14 January 2013.

(**), (***) & (****) Inserted vide Home Deptt. Notification No.21390 dtd. 13.6.2013.

Explanation :-

- (i) (*) For the purpose of assessing the percentage of disability, loss or injury causing several mental agony to women and child victims in case like human trafficking and simple injury to the child victims, the certificate of CDMO/SDMO, as the case may be, shall be conclusive unless authority finds it unacceptable for reasons to be recorded in writing.
- (ii) (**) In case of rape, the concerned authority shall call for the report of CDMO/SDMO and report of investigating Police Officer including the copy of the FIR to assess the prima facie of the incident which shall be conclusive unless the authority finds it unacceptable for the reasons to be recorded in writing.
- (iii) (***) In case of Penetrative Sexual Assaults and Aggravated Penetrative Sexual Assaults and Sexual Assault and Aggravated Sexual Assault, the report of Chief District Medical Officer or sub-divisional Medical Officer and report of Investigating Officer including the copy of the FIR to assess the prima facie of the incident shall be conclusive unless the authority finds it unacceptable for the reasons to be recorded in writing.
- (iv) (****) In case of Sexual Harassment of child and Using Child for Pornographic Purposes, the report of Investigating Officer including the copy of the FIR to assess the prima facie of the incident shall be conclusive unless the authority finds it unacceptable for the reasons to be recorded in writing.

By Order of the Governor

Sd/-
(U.N. Behera)
Principal Secretary to Government

(*) & (**) Substituted by the explanations at (i) & (ii) vide Home Deptt. Notification No.49915 dtd. 27.12.2012 published in the Odisha Gazette on 14th January.

(***) & (****) Inserted vide Home Deptt. Notification No. 21390 dtd. 13.6.2013.

**GOVERNMENT OF ODISHA
HOME DEPARTMENT**

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No.: 48516/C & HR
CP (VCS) 01/2013

Dated : 26/12/2013

NOTIFICATION

In pursuance of section 357-A of the Code of Criminal Procedure, 1973 (2 of 1974), the State Government in co-ordination with the Central Government, do hereby make the following scheme to amend the Odisha Victim Compensation Scheme, 2012, namely :-

1. (1) This scheme may be called "The odisha victim Compensation (Amendment) Scheme, 2013."

(2) It shall come into force on the date of its publication in the Odisha Gazette.

2. In the Odisha Victim Compensation Scheme, 2012 (hereinafter referred to as the said scheme), in the Schedule, in serial No. 2 and 3 the words and brackets (Including Acid Attack) shall be omitted.

3. In the said scheme, in the Schedule, after Serial No.10, following Serial No. and necessary entries thereof shall be inserted, namely :-

"11. victim of acid attack Rs.3,00,000"

4. In the said scheme, in the Schedule after item No. iv of the explanation, following item shall be inserted, namely:-

"(v) In case of victim of acid attack for the purpose of assessing the percentage of loss or injury, the report of Chief District Medical Officer (CDMO) / Sub-divisional Medical Officer (SDMO) and report of Investigating Officer including the copy of the FIR in relation to shall be conclusive unless the authority finds it unacceptable for the reasons to be recorded in writing and, on the basis of such reports Rupees One Lakh Rs.1.00 lakh shall be paid to the victim of acid attack within fifteen days of the occurrence of such incident to facilitate immediate medical attention and expenses in this regard."

By Order of the Governor

Sd/-

Principal Secretary to Government

No.: 48517/C & HR

Dated : 26/12/2013

Copy forwarded to Mr. C.K. Parasaran, Solicitor General of India, Hon'ble Supreme Court of India, New Delhi for kind information and necessary action with reference to this Department Memo No. 49916, dt.27.12.2012 and No.21391 dt.13.06.2013.

Sd/-

Under Secretary to Government

No.: 48518/C & HR

Dated : 26/12/2013

Copy forwarded to Deputy Secretary to Government of India, Ministry of Home Affairs (CS Division), North Block, New Delhi with reference to this Department Memo No. 49917, dt.27.12.2012 and No.21392 dt.13.06.2013. for information and necessary action.

Sd/-

Under Secretary to Government

No.: 48519/C & HR

Dated : 26/12/2013

Copy forwarded to D.G. & I.G. of Police, Odisha, Cuttack with reference to this Department Memo No. 49918, dt.27.12.2012 and No.21393 dt.13.06.2013. for information and necessary action.

Sd/-

Under Secretary to Government

No.: 48520/C & HR

Dated : 26/12/2013

Copy forwarded to the I.G. of Police, CID, CB, Odisha, Cuttack / Commissioner of Police, Bhubaneswar-Cuttack / All I.G.s of Police / All D.I.G.s of Police / All Superintendents of Police / All Deputy commissioners of Police with reference to this Department Memo No. 49919, dt.27.12.2012 for information and necessary action.

Sd/-

Under Secretary to Government

No.: 48521/C & HR

Dated : 26/12/2013

Copy forwarded to Principal Secretary to Government, Law Department / Commissioner-cum-Secretary to Government, Women & Child Development Department / Commissioner-cum-Secretary to Government, Health & F.W. Department with reference to this Department Memo No. 49920, dt.27.12.2012 and No.21395 dt.13.06.2013. for kind information and necessary action.

Sd/-

Under Secretary to Government

No.: 48522/C & HR

Dated : 26/12/2013

Copy forwarded to the Director, Printing & Stationary and Publication, Odisha, Cuttack with reference to this Department Memo No. 49921, dt.27.12.2012 and No.21396 dt.13.06.2013. for information and necessary action. He is requested to publish this notification in the next issue of the Extra-Ordinary issue of the Orissa Gazette and supply the Home Department with 100 copies.

Sd/-

Under Secretary to Government

No.: 48523/C & HR

Dated : 26/12/2013

Copy forwarded to all Police Stations of Home Department / Home (IMU) Department and 20 copies to guard file with reference to this Department Memo No. 49922, dt.27.12.2012 and No.21397 dt.13.06.2013 for kind information and necessary action.

Sd/-

Under Secretary to Government

No.: 48524/C & HR

Dated : 26/12/2013

Copy forwarded to the Member Secretary, Odisha State Legal Services Authority, Cuttack with reference to this Department Memo No. 49923, dt.27.12.2012 and No.21398 dt.13.06.2013. for information and necessary action.

Sd/-

Under Secretary to Government

No.: 48525/C & HR

Dated : 26/12/2013

Copy forwarded to all Collectors for kind information and necessary action with reference to this Department Memo No. 21399 dt.13.06.2013. for kind information and necessary action.

Sd/-

Under Secretary to Government



**Women and Child Development Department
Government of Odisha**