

List of Amendment Acts- 19 of 2018, 33 of 2019, 16 of 2021

TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 14th February 1997 and is hereby published for general information :—

ACT No. 4 OF 1997.

An Act to provided for the regulation of the ¹[Clinical Establishments]¹ in the State of Tamil Nadu for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty- Eighth Year of the Republic of India as follows:—

1. Short title, extent and commencement. ²[(1) This Act may be called the Tamil Nadu Clinical Establishments (Regulation) Act, 1997]².

(2) It extends to the whole of the State of Tamil Nadu.

³[(3) It shall come into force at once]³.

1. Substituted by s.2 of TNA 19 of 2018 (w.e.f.to be updated).

2. Substituted by s.3 (1) of TNA 19 of 2018 (w.e.f.to be updated).

3. Substituted by s.3 (2) of TNA 19 of 2018 (w.e.f.to be updated).

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

²[(a) “clinical establishment” means a clinical establishment under any recognized systems of medicine and includes—

(i) a general hospital including dental hospitals, maternity hospital, dispensary, consulting room, clinic, polyclinic or nursing home;

(ii) an institution or a centre, by whatever name called where physically or mentally sick, injured or infirm person is admitted either as in-patient or out-patient for treatment with or without the aid of operative procedures;

(iii) a clinic catering to radiological, biological or other diagnostic or investigative services with the aid of laboratory or other medical equipments;

established and administered or maintained by any person or body of persons, whether incorporated or not or the State Government or Central Government or any department of the State Government or Central Government or a trust, whether public or private or a company, whether or not owned by the Government or a local authority but does not include the clinical establishments controlled or managed by the Armed Forces.

Explanation.— For the purpose of this clause, “Armed Forces” means the forces constituted under the Army Act, 1950 (Central Act 46 of 1950), the Air Force Act, 1950 (Central Act 45 of 1950) and the Navy Act, 1957 (Central Act 62 of 1957)]²;

¹[(aa)]¹ “competent authority” means any authority, officer or person appointed, by the Government, by notification, to perform the functions of the competent authority under this Act and different competent authority may be appointed for different areas ;

³[(aaa) “District Committee” means the committee constituted under section 2-D]³;

(b) “Government” means the State Government;

⁴[(c) “recognized system of medicine” means Allopathy, Yoga, Naturopathy, Ayurveda, Homeopathy, Siddha or Unani system of medicine or any other system of medicine recognized by the Central Government or State Government;

(d) “State Level Advisory Committee” means the committee constituted under section 2-A]⁴;

1. Re-lettered by s.5 (1) of TNA 19 of 2018 (w.e.f.to be updated).

2. Inserted by s.5 (1) of TNA 19 of 2018 (w.e.f.to be updated).

3. Inserted by s.5 (2) of TNA 19 of 2018 (w.e.f.to be updated).

4. Substituted by s.5 (3) of TNA 19 of 2018 (w.e.f.to be updated).

¹2-A. Constitution of State Level Advisory Committee.— (1) The Government shall, by notification, constitute a committee to be called the State Level Advisory Committee.

(2) The State Level Advisory Committee shall consist of the following members, namely:—

(a) The Director of Medical and Rural Health Services, ex-officio, who shall be the Chairperson;

(b) The Director of Medical Education, ex-officio or his nominee;

(c) The Commissioner of Indian Medicine and Homeopathy ex-officio or his nominee;

(d) The Director of Public Health and Preventive Medicine, ex-officio or his nominee;

(e) One member from Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy system of medicine nominated by the respective State Council in rotation for one year in the order of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy;

(f) One member nominated by the Indian Medical Association;

(g) One member nominated by the Tamil Nadu Medical Council;

(h) One member nominated by the Tamil Nadu Dental Council; and

(i) One member nominated by the Tamil Nadu Nurses and Midwives Council.

(3) The nominated members shall hold office for a period of three years but shall be eligible for re-nomination for another term of three years.

2-B. Meetings of State Level Advisory Committee.—(1) The State Level Advisory Committee shall meet at least once in a year at such time and in such place as may be prescribed.

(2) The chairperson or in his absence, any member chosen by the members present, shall preside at the meeting.

(3) The number of members necessary to constitute a quorum at a meeting and the procedure to be followed thereat shall be such as may be prescribed.

2-C. Functions of State Level Advisory Committee.—The State Level Advisory Committee shall advise the Government upon matters of regulation of clinical establishments and perform such other functions as may be assigned to it by the Government, from time to time.

2-D. Constitution of District Committee.—(1) The Government shall, by notification, constitute for every district, a committee to be called the District Committee.

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

(a) The Deputy Director of Medical and Rural Health Services, ex-officio, who shall be the chairperson;

²[(aa) The Deputy Director of Public Health and Preventive Medicine in the district]²;

(b) The Dean of a Government Medical College in the district ;

(c) The District Siddha Medical Officer or his nominee;

(d) One member nominated by the Tamil Nadu Medical Council;

(e) One member nominated by the Indian Medical Association;

(f) One member from Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy system of medicine nominated by the respective State Council in rotation for one year in the order of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy;

(g) One member nominated by the Tamil Nadu Nurses and Midwives Council.

(3) The nominated members shall hold office for a period of three years but shall be eligible for re-nomination for another term of three years.

2-E. Meetings of District Committee.— (1) The District Committee shall meet at least once in every six months at such time and in such place as may be prescribed.

(2) The chairperson or in his absence, any member chosen by the members present, shall preside at the meeting.

(3) The number of members necessary to constitute a quorum at a meeting and the procedure to be followed thereat shall be such as may be prescribed.

2-F. Functions of District Committee.—The District Committee shall aid and advise the competent authority of the district in the matters of registration of clinical establishments and perform such other duties connected therewith or incidental thereto, as may be prescribed]¹.

1 Inserted by s.6 of TNA 19 of 2018 (w.e.f.to be updated).

2. Inserted by s.2 of TNA 16 of 2021 (w.e.f.22.09.2021).

3. Registration of ²[Clinical establishments]². ¹[(1) No person shall carry on any clinical establishment unless such clinical establishment is duly registered under this Act:

Provided that every clinical establishment in existence on the date of the commencement of the Tamil Nadu ²[Clinical establishments]² (Regulation) Amendment Act, 2018 (hereinafter referred to as the notified date), shall apply for registration within ³[fifteen months]³ from the notified date and a clinical establishment established after the notified date, shall apply for registration within a period of six months from the date of its establishment:

Provided further that every clinical establishment in existence on the notified date shall cease to carry on its business on the expiry of ⁴[eighteen months]⁴ from the notified date unless such clinical establishment has applied for registration and is so registered or till such application is disposed of, whichever is earlier]¹.

(2) Every application for registration under sub-section (1) shall be made to the competent authority in such form and in such manner and shall be accompanied by such fee not exceeding five thousand rupees as may be prescribed.

⁵[Provided that no fee shall be collected from the clinical establishments established and administered or maintained by the State Government or Central Government or any Departments of the State Government or Central Government

or a company owned or controlled by the State Government or Central Government or a local authority]⁵.

(3) No ²[Clinical establishment] shall be registered under this Act unless the competent authority is satisfied that such ²[Clinical establishment] is in a position to provide such specialised services and facilities possess such skilled manpower are equipments and, conditions as may be prescribed.

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1. Substituted by s.7 of TNA 19 of 2018 (w.e.f.to be updated).
 2. Substituted by s.4 of TNA 19 of 2018 (w.e.f.to be updated).
 3. Substituted by s.2 (1) (i) of TNA 33 of 2019 (w.e.f.31.05.2019).
 4. Substituted by s.2 (1) (ii) of TNA 33 of 2019 (w.e.f.31.05.2019).
 5. Added by s.2 (2) of TNA 33 of 2019 (w.e.f.31.05.2019).
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Certificate of registration.4. (1) The competent 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, grant to the ¹[Clinical establishment] a certificate of registration in such form and subject to such conditions as may be prescribed .

(2) If, after the inquiry and after giving an opportunity to the applicant of being heard, the competent authority is satisfied, that the applicant has not complied with the requirements of this Act and the rules made thereunder, it shall, on reasons to be recorded in writing, reject the application or registration.

(3) Every certificate of registration is valid for a period of five years and may be renewed for a period of five years at a time.

(4) Every application or renewal of registration shall be made within such time as may be prescribed, and the provisions of this Act shall as far as may be apply in relation to the renewal of a registration as they apply in relation to registration.

(5) If a certificate of registration is lost, destroyed, mutilated or damaged, the competent authority may, on application and on payment of such fee as may be prescribed, issue a duplicate certificate.

1. Substituted by s.4 of TNA 19 of 2018 (w.e.f.to be updated).

5. Suspension or cancellation of registration. ²[(1) Where the holder of a certificate of registration of a clinical establishment has been convicted under any of the provisions of this Act for three times in the aggregate, the competent authority shall cancel the certificate of registration and the clinical establishment shall not be permitted to apply for fresh registration].

¹[(1-A)] The competent authority may, suo-motu or on complaint, issue a notice to any Clinical establishment to show cause why its registration under this Act 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 ³[Clinical establishment], the competent authority is satisfied that there has been a breach of any of the provisions of this Act or the rules made thereunder or the conditions of registration, it may, without prejudice to any other action, that it may take against such ³[Clinical establishment] suspend its registration for such period as it may think fit or cancel its registration :

Provided that where the competent 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 ³[Clinical establishment] without issuing any notice.

1 Renumbered by s.8 of TNA 19 of 2018 (w.e.f.to be updated).

2. Inserted by s.8 of TNA 19 of 2018 (w.e.f.to be updated).

3. Substituted by s.4 of TNA 19 of 2018 (w.e.f.to be updated).

¹[5-A. Maintenance of facilities and services by clinical establishments.— (1) Every clinical establishment shall maintain minimum standards of facilities and services, as may be prescribed.

(2) The Government shall prescribe minimum standards of facilities and services in respect of different categories of clinical establishments under all recognized systems of medicines.

5-B. Duties and responsibilities of clinical establishments.— Every clinical establishment shall perform the following duties and responsibilities, namely :—

(a) administer first aid and take other life saving or stabilizing emergency measures in all medico-legal or potentially medico-legal cases such as road accidents, accidental or induced burns or poisoning or criminal assaults and the like when the victims present themselves at the clinical establishment;

(b) participate in the implementation of all National and State health programmes in such manner as the Government may specify, from time to time, and furnish periodical reports thereon to the authorities specified therein;

(c) maintain medical records in such form and in such manner as may be prescribed for the respective system of medicine;

(d) carry out necessary action to prevent the spread of communicable diseases and to control non-communicable diseases, as the Government may direct, from time to time; and

(e) such other duties and responsibilities, as may be prescribed.

5-C. Annual publication of lists of clinical establishments.— The competent authority shall maintain, in such form as may be prescribed, a register of clinical establishments and shall, during the month of January in each year, publish in the Tamil Nadu Government Gazette, a list of clinical establishments registered together with such details pertaining to them as may be prescribed]¹.

¹ Inserted by s.9 of TNA 19 of 2018 (w.e.f.to be updated).

Inspection or inquiry, 6. (1) The competent authority shall have the right to cause an inspection of, or inquiry in respect of any ¹[Clinical establishment], its buildings, laboratories and equipments and also of the work conducted or done by the ¹[Clinical establishment], to be made by such person or persons as it may direct and to cause an inquiry to be made in respect of any other matter connected

with the ¹[Clinical establishment] and that establishment shall be entitled to be represented there at.

(2) The competent authority shall communicate to the ¹[Clinical establishment] the views of that authority with reference to the results of such inspection or inquiry and may, after ascertaining the opinion of the ¹[Clinical establishment] thereon advise that establishment upon the action to be taken.

(3) The ¹[Clinical establishment] shall report to the competent authority the action, if any, which is proposed to be taken or has been taken upon the results of such inspection or inquiry, Such report shall be furnished within such time as the competent authority may direct,

(4) Where the ¹[Clinical establishment] does not, within a reasonable time take action to the satisfaction of the competent authority that authority may, after considering any explanation furnished or representation made by the ¹[Clinical establishment], issue such directions as that authority deems fit and the ¹[Clinical establishment] shall comply with such directions.

1. Substituted by s.4 of TNA 19 of 2018 (w.e.f.to be updated).

Appeals,7. Any ¹[Clinical establishment] aggrieved by an order of the competent authority rejecting an application for registration under sub-section (2) of section 4 or an order of suspension or cancellation of registration under sub-section (2) of section 5 or by any direction of the competent authority under section 6 may within thirty days. from the date of receipt of the order, prefer an appeal to such authority and in such manner as may be prescribed.

1. Substituted by s.4 of TNA 19 of 2018 (w.e.f.to be updated).

¹[8. Penalties.— (1) Whoever contravenes sub-section (1) of section 3 shall be punishable, with fi ne which shall not be less than five thousand rupees but which may extend to fifty thousand rupees.

(2) Whoever contravenes any other provision of this Act or any rule made thereunder or any condition of the registration, shall be punishable with fine which shall not be less than five thousand rupees but which may extend to fifty thousand rupees:

Provided that for the purpose of this sub-section and sub-section (1), the Court may, for any adequate or special reasons to be mentioned in the judgment, impose a fine not less than five thousand rupees.

(3) Whoever willfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any function which such person or authority is required or empowered under this Act, to discharge, shall be punishable with fine which may extend to thirty thousand rupees.

(4) Whoever being required by or under this Act to supply any information, willfully withholds such information or gives information which he knows to be false or which he does not believe to be true, shall be punishable with fine which may extend to thirty thousand rupees]¹.

1 Substituted by s.10 of TNA 19 of 2018 (w.e.f.to be updated).

Offences by companies. 9. (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.

(2) 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 these section,—

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

(b) “director”, in relation to—

(i) a firm, means a partner in the firm.

(ii) a society or other association of individuals, means the person who is entrusted under the rules of the society or other association, with the management of the affairs of the society or other association, as the case may be.

Cognizance of offences. 10. No court shall take cognizance of an offence under this Act except on a complaint made by the competent authority or any officer authorised in this behalf by the competent authority.

Protection of action taken in good faith. 11.(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

Furnishing of returns, etc. 12. Every ¹[Clinical establishment] shall, within such time or within such extended time as may be fixed by the competent authority in this behalf, furnish the competent authority such returns, statistics and other information as the competent authority may. from time to time require.

1. Substituted by s.4 of TNA 19 of 2018 (w.e.f.to be updated).

Competent authority, etc. to be public servants. 13. Every authority and every officer duly authorised to exercise the powers or to discharge any duty

imposed on it or him by or under this Act shall be to be public deemed to be a public servant within the meaning of section 21 of the Indian servants Penal Code (Central Act XLV of 1860).

Powers to make rules. 14. (1) The Government may, by notification, make rules, to carry out the purposes of this Act.

(2) Every rule made under this Act and every order made under section 15 shall, as soon as possible after it is made, be placed on the Table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or order, or the Assembly decide that the rule or order should not be made, the rule or order shall thereafter have effect only in such modified form or be of no effect, as the case maybe, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or order.

Power to remove difficulties. 15. If any difficulty arises in giving effect to the provisions of this Act, the difficulties. Government, may as occasion requires ,by order, not inconsistent with the provisions of this Act, do anything which appear to them to be necessary or expedient for the purpose of removing the difficulty :

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

(By order of the Government)

A. K. RAJAN,

Secretary to Government, Law Department