

5. Certificate of registration* I) Subject to the provisions of this Act and the rules made thereunder, the Supervisory Authority shall, on receipt of an application for registration of the applicant in respect of the semen bank named in the application and issue to him a certificate of registration in the prescribed form : Provided that the Supervisory Authority may refuse to register the applicant if it is satisfied (d) that applicant or any person employed by him at the semen bank is not fit to carry on to be employed at the semen bank named in the application; or (b) that does not have the facilities for equipment to carry out the prescribed work of the donor/recipient : to store the

semen or (c) that for reasons connected with the situation, the construction, start or equipment of the semen bank or any premises used in connection therewith, is or are not to be used for semen bank or such description as (the semen bank mentioned in application) that the semen bank or is or are used or to be for such purposes which are, in any way improper, or undesirable in the case of such semen bank.

5 DELHI GAZETTE EXTRAORDINARY Punishment for carrying on semen bank without registration.—Whoever contravenes the provisions of section 3 punishable with fine, which may extend to five thousand rupees and in the case of second or subsequent offence, imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees.

7. Cancellation of registration.—Subject to the provisions of this Act, the Supervisory Authority may, at any time, cancel the registration of a person in respect of any semen bank on any ground which would entitle it to refuse an application for registration of that person in respect of that semen bank or on the ground that the person has been convicted of an offence under this Act or that any other person has been convicted of such an offence in respect of that semen bank.

ND Fee of refusal or of cancellation of registration and Before making an order refusing an application for registration or an order cancelling any registration, the Supervisory Authority shall give to the applicant or to the person registered, as the case may be, not less than one month's notice of its intention to make such an order, and every such notice shall state the grounds on which the Supervisory Authority intends to make the order and shall, before making the order, give him (person or by a representative) an opportunity of showing cause why the order should not be made.

(2) If the Supervisory Authority, after giving the applicant or the person registered, an opportunity of showing cause as aforesaid, decides to refuse the application for registration or to cancel the registration, as the case may be, it shall make an order to that effect and shall send a copy of the order by registered post to the applicant or the person registered.

(3) Any person aggrieved by an order refusing an application for registration or cancelling any registration may, within a month after the date on which the copy of the order was sent to him, appeal to the Government against such order. The decision of the Government or any such appeal shall be final.

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

Inspection of semen banks and The Supervisory Authority or any officer empowered by it in this behalf may, subject to such general or special orders as may be made by the Government, enter and premises which are used or which the Supervisory Authority or the officer empowered by it has reasonable cause to believe used for the purpose of semen bank and may also enter Government hospital or any other place where semen is kept or stored in accordance with the provisions of this Act.

(2) If any person refuses to allow the Supervisory Authority or the officer empowered by it to enter Government hospital or hospital as aforesaid, or to inspect any premises or the officer empowered by it in the execution of the powers under this section, he shall be liable to be punished with imprisonment for a term not exceeding six months or with fine not exceeding one thousand rupees or with both.

O. Donor to be tested before allowed to donate. (1) The semen bank before accepting the semen for artificial insemination shall test the donor for presence of HIV and 2 antibodies by using a highly sensitive ELISA Kit and if found negative, then, the donor shall be allowed to donate.

Explanation : The expression "HIV 1 and 2, ELISA Kit or ELISA Test" and "HIV" used in this section or in other sections of this Act denote respectively "Human Immune Deficiency Virus Type 1 and Type 2", "Enzyme Linked Immunosorbent Kit or Enzyme Linked Immune-sorbent Assay Test" and "Human Immune Deficiency Virus".

(2) The donor shall be screened for HIV surface antigen and if found negative, only then, the donor shall be allowed to donate.

(3) The semen bank shall keep complete bio-data, including mark of identification, of the donor.

1. Storage of donated semen before use.—The donated semen shall be stored either by cryo preservation of liquid nitrogen or any other safe method for a period of minimum three months in order to exclude window period of HIV infection in the donor.

2. Second test on donor before use of donated semen.—At the end of three months, a second ELISA Test shall, by same method, be performed on the donor.

13. Use of donated semen.—If, after conducting of necessary test, the donor is found fit, only then, the semen shall be used.

14. Duties of qualified medical practitioner/Government hospital, etc. performing artificial insemination.—The qualified medical practitioner or Government hospital or hospital or the semen bank performing artificial insemination, as the case may be, shall—

17. Fines and penalties. 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artificial insemination; seek the written consent of the donor and the recipient and their spouse. in case of frequent use of semen or ovum from specified donor/recipient; not segregate the XX or XY chromosomes for artificial insemination. Explanation.—The letters "XX" and "XY" used in this clause denote "female sex" and "male sex" respectively; maintain secrecy about the identity of the donor and the recipient of the semen/ovum; seek the written consent of the recipient for using the semen on the basis of only one ELISA Test being negative where facilities for cryo-preservation and liquid nitrogen for semen are not available. Power to call for information or to seize Supervisory Authority has reason to believe that any of the provisions of this Act is being violated, he may call for any information or may seize any article, medicine or any other related admission register or other document maintained/kept or found at the place. General provision for punishment of offences.—Whoever contravenes any provision of this Act or of any rule or order or notification made thereunder shall, if no punishment is provided for the offence, be punishable for the first offence with fine which may extend to five hundred rupees, and for second or subsequent offence with fine which may extend to two thousand rupees. Punishment for contravention of provisions of section 10, 11, 12, 13 or 14.—Whoever contravenes any of the provisions of section 10, 11, 12, 13 or 14 of this Act shall be punishable with imprisonment for a term which may extend to three years; and with minimum fine of five thousand rupees. Court competent to try offences under this Act and take cognizance of—(1) No court other than the court of Metropolitan Magistrate shall take cognizance of, and try an offence under this Act. (2) No court shall take cognizance of any offence under this Act except on a complaint in writing of the Supervisor or any Officer authorised by it, in writing, in this behalf. (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1973) offences under this Act shall be non-cognizable and bailable. Power to delegate—The Government may, by notification in the Official Gazette, direct that any power exercisable by this Act, may also be exercised by such officer as may be therein, subject to such conditions, if any, as may be specified therein. Protection or action taken in good faith.—No suit, prosecution, or other legal proceedings shall lie against any officer, Supervisor Authority or Government for anything which is in good faith done or intended to be done in pursuance of this Act. Power to make rules.—(1) The Government may, by notification in the Official Gazette, make rules to carry 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) prescription of date and form of application and the fee required to be paid for registration of semen banks; (b) prescription of form of certificate of registration; (c) prescription of tests in respect of donors/recipients; (d) any other matter in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Government, necessary. (3) Any rule made by the Government shall be subject to previous publication thereof in the Official Gazette. (4) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly and House agrees in making any modifications in the rule or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so, however, that any such modification or amendment shall be without prejudice to the validity of anything previously done under that rule. R.T.L. DSOUZA, Under secy. (LA). 11 !