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SECRET

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 provide for the regulation of the Private Clinical Establishments 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. (1) This Act may be called the Tamil Nadu Private Clinical Establishments (Regulation) Act, 1997.

Short title,
extent and
commence-
ment.

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

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

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

Definitions.

(a) "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 ;

(b) "Government" means the State Government ;

(c) "private clinical establishment" means and includes—

(i) a general hospital, maternity hospital or dispensary ;

(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 or 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 for body of persons, whether incorporated or not, but does not include a clinical establishment established and administered or maintained by the State Government or Central Government or a local authority or a company or corporation owned or controlled by the State Government or Central Government.

3. (1) On or after the date of the commencement of this Act, no person shall carry on any private clinical establishment unless such private clinical establishment is duly registered under this Act :

Registration
of private
clinical
establishments.

Provided that every private clinical establishment in existence on the date of the commencement of this Act shall apply for registration within three months from that date :

Provided further that every private clinical establishment in existence on the date of the commencement of this Act shall cease to carry on its business on the expiry of four months from that date unless such private clinical establishment has applied for registration and is so registered or till such application is disposed of whichever is earlier.

(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.

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

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 private 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, for reasons to be recorded in writing, reject the application for 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 for 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.

Suspension or cancellation of registration.

5. (1) The competent authority may, suo-moto or on complaint, issue a notice to any private 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 private 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 private 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 private clinical establishment without issuing any notice.

Inspection or inquiry,

6. (1) The competent authority shall have the right to cause an inspection of, or inquiry in respect of any private clinical establishment, its buildings, laboratories and equipments and also of the work conducted or done by the private 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 private clinical establishment and that establishment shall be entitled to be represented there at.

(2) The competent authority shall communicate to the private 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 private clinical establishment thereon advise that establishment upon the action to be taken.

(3) The private 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 private 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 private clinical establishment, issue such directions as that authority deems fit and the private clinical establishment shall comply with such directions.

7. Any private 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,

Appeals,

8. Whoever contravenes any provisions of this act or any rule made under this Act or any condition of the registration granted thereunder shall be punishable with fine which shall not be less than five thousand rupees but which may extend to fifteen thousand rupees :

Punishment for contravention of any provisions of this act,

Provided that the Court may, for reasons to be recorded in the judgement, impose a fine than five thousand rupees,

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 :

Offences by companies

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.

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.

Cognizance of offences.

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.

Protection of action taken in good faith.

(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.

12. Every private clinical establishment shall, within such time or within such extended time as may be fixed by the competent authority in this behalf, furnish to the competent authority such returns, statistics and other information as the competent authority may, from time to time require.

Furnishing of returns, etc.

competent
authority, etc.
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 deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Central Act
XLV of 1860

power 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 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 order.

power to remove
difficulties.

15. If any difficulty arises in giving effect to the provisions of this Act, the Government, may as occasion requires, by order, not inconsistent with the provisions of this Act, do anything which appears 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 Governor)

A. K. RAJAN,
Secretary to Government, Law Department

Tamil Nadu
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Tamil Nadu
Finance
of 1995.

Tamil Nadu
Finance
of 1996.