

**All about Pre-Conception and Pre-Natal Diagnostic Techniques
(Prohibition of Sex Selection) Act, 1994**

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Introduction

This act was enacted to make laws for the prohibition of sex selection, before or after conception. The objective is the regulation of pre-natal diagnostic techniques and prevention of their misuse for sex selective abortions. It is used to curb the incidents of female foeticide and matters connected with it. It is effective in arresting the declining sex ratio in the country.

Q 1. When was this act enacted and what is its applicability?

A 1. The pre-conception and pre-natal diagnostic techniques (prohibition of sex selection) act was enacted by the parliament on 20th September, 1994 and is applicable to the whole of India except the state of Jammu and Kashmir.

Q 2. What is the difference between pre-natal diagnostic procedures, pre-natal diagnostic tests and pre-natal diagnostic techniques for the purpose of this act?

A 2. Pre-natal diagnostic procedure is a medical procedure which might involve ultrasonography, fetoscopy or removing samples of amniotic fluids, chorionic villi, blood or any other tissue of either a man or a woman before or after conception. It is then sent to a genetic laboratory or clinic for the purpose of conducting a pre-natal diagnostic test for selection of sex, which can be before or after the conception.

Pre-natal diagnostic test also makes use of ultrasonography or any such test of amniotic fluids, chorionic villi, blood or tissue or fluid of a pregnant woman. It is conducted to detect any genetic or metabolic disorders or chromosomal abnormalities or congenital abnormalities which may be linked to any sex-related disease.

Pre-natal diagnostic techniques include all pre-natal diagnostic procedures and pre-natal diagnostic tests.

Q 3. What are the situations which allow the conduct of pre-natal diagnostic techniques?

A 3. Pre-natal diagnostic techniques shall be made use of only for the detection of the following:

- 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

Q 4. What is the information that needs to be recorded before the conduct of any pre-natal diagnostic technique?

A 4. The following information has to be recorded in writing by the person conducting the pre-natal diagnostic technique before any pre-natal diagnostic technique can be conducted:

- i. The pregnant woman should be over the age of thirty-five
- ii. The pregnant woman should have undergone two or more spontaneous abortions or foetal loss
- iii. The pregnant woman should have been exposed to agents such as drugs, radiation, infection or chemicals
- iv. There should be a family history of mental retardation or physical deformities such as spasms in either the pregnant woman or her spouse
- v. Any other condition as may be specified by the Board

Q 5. What are the conditions that need to be fulfilled before any pre-natal diagnostic technique is conducted on a person?

A 5. No pre-natal diagnostic technique shall be conducted unless:

- i. The side and after effects of the technique have been made known to the pregnant woman concerned
- ii. The written consent of the pregnant woman has been obtained in a language that is understandable to her
- iii. A copy of the written consent has been given to the pregnant woman concerned

Q 6. Who are the persons to whom the communication of the knowledge of the sex of the foetus is prohibited?

A 6. No person, including the person who conducts the pre-natal diagnostic technique shall communicate the sex of the foetus to the pregnant woman or any of her relatives by words, signs or any other manner.

Q 7. What are the functions of the Central Supervisory Board?

A 7. Following are the functions of the Central Supervisory Board:

- i. To give necessary advice to the central government regarding pre-natal diagnostic techniques, sex selection or any of their misuse
- ii. To review and monitor if the said Act is implemented in a proper way and if not, suggest changes required
- iii. To take the charge of creating public awareness against pre-natal sex selection and evils of female foeticide
- iv. To lay down the code of conduct to be followed by the people working in Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics
- v. To ensure that the bodies formed under the said Act perform their functions in a proper way
- vi. Any other functions as may be prescribed under the Act

Q 8. What are the functions of the Appropriate Authority to be constituted under the Act?

A 8. Following are the functions of the Appropriate Authority:

- i. To grant, suspend or cancel registration of the Genetic bodies under the Act
- ii. To ensure that the standards laid down for the above-mentioned bodies are followed
- iii. To investigate breaches under this act and if proven correct, take necessary actions
- iv. To consider the advice forwarded by the Advisory Committee formed under the said Act
- v. To take legal actions, Suo moto or by notice, of any act of sex selection at any place
- vi. To endeavour to create public awareness against sex selection techniques
- vii. In case of change in technology or social conditions, recommend modifications in the Act to the Board and State Board.

Q 9. What are the powers of the Appropriate Authority?

A 9. Appropriate Authority shall have the following powers under the Act:

- i. To summon any person who has any information regarding the violation of any provisions of this Act
- ii. To produce any document related to the violation
- iii. To issue search warrant of suspected places
- iv. Any other matter which may be prescribed

Q 10. What is the time period for registration of any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under this Act?

A 10. All the above-mentioned bodies shall apply for registration within a period of sixty days from the commencement of this Act. It can be applied for separately or jointly.

Q 11. What shall be the consequences if the registration is not applied for within sixty days?

A 11. In case registration is not applied for within sixty days, the Centre, Laboratory or Clinic will cease to function six months from the commencement of the Act.

Q 12. When can such registration be cancelled or suspended?

A 12. Such a registration can be cancelled or suspended only when the Appropriate Authority is satisfied that the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic violates any of the provisions of this Act or rules

Q 13. What is the procedure for appeal against such cancellation or suspension of registration?

A 13. The Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic can appeal against the decision of the Appropriate Authority within a period of thirty days from when it received the notice of such cancellation or suspension. The appeal can be to:

- i. The Central Government, where the appeal is against the order of the Central Appropriate Authority
- ii. The State Government, where the appeal is against the order of the State Appropriate Authority.

Q 14. What is the meaning of advertisement for the purpose of this Act?

A 14. Advertisement shall include the following:

- i. Notice, circular, label, wrapper
- ii. Advertisement through internet or any electronic or print media
- iii. Hoarding, wall painting, signal, light, smoke, sound, gas

Q 15. What is the punishment prescribed for any person who seeks the aid of any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic for any purpose other than the ones allowed in the Act?

A 15. Any such person shall be punished with a jail term which can be a maximum of three years along with fine which may extent up to fifty thousand if it's a first offence. In case of subsequent offences, the jail term may increase up to five years and the maximum fine can be one lakh.

Q 16. Who is to be held responsible if the violator of the provisions of the Act is a company?

A 16. If any offence has been committed under the Act by a company, that person will be held liable who is in charge of or is responsible for the conduct of the company. The company will also be held responsible separately. The person can avoid responsibility by proving that the act was done without his knowledge, or that he or she exercised due diligence in the conduct of affairs to avoid such an offence.

When it is proved that the offence was committed with the consent or connivance of the director, manager, secretary or other officer of the company, they shall also be deemed to be guilty.

Q 17. What is sex-selection?

A 17. Sex selection is any act of identifying the sex of the foetus and elimination of the foetus if it is of the unwanted sex. It is heavily biased against the female sex.