

**THE GOA CLINICAL ESTABLISHMENTS (REGISTRATION AND
REGULATION) BILL, 2019
(BILL NO 22 of 2019)**

**A
BILL**

to provide for the registration and regulation of clinical establishments in the State of Goa and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of Goa in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title and commencement.— (1) This Act may be called the Goa Clinical Establishments (Registration and Regulation) Act, 2019.

(2) It extends to the whole of the State of Goa.

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

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

(a) “authority” means the District Registering Authority appointed under section 7 of this Act;

(b) “certificate” means certificate of registration issued under section 27 of this Act ;

(c) “clinical establishment” means,-

(i) a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution, by whatever name called, that offers services, facilities requiring diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicine established and administered or maintained by any person or body of persons, whether incorporated or not; or

(ii) a place established as an independent entity or part of an establishment referred to in sub-clause (i), in connection with the diagnosis or treatment of diseases where pathological, bacteriological, genetic, radiological, chemical, biological investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipment, are usually carried on, established and administered or maintained by any person or body of persons, whether incorporated or not and shall include a clinical establishment owned, controlled or managed by—

(a) the Government or a Department of the Government;

(b) a trust, whether public or private ;

(c) a corporation (including a society) registered under a Central, Provincial or State Act, whether or not owned by the Government ;

(d) a local authority; and

(e) a single doctor/group of doctors, but does not include the clinical establishments owned, 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);

(d) “Council” means the Council constituted under section 3 of this Act;

(e) “emergency medical condition” means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) of such a nature that the absence of immediate medical attention could reasonably be expected to result in,—

(i) placing the health of the individual or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy; or

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any organ or part of a body;

- (f) "Government" means the Government of Goa;
- (g) "Grievance Redressal Officer" means person appointed by every clinical establishment under the provisions of section 9 of this Act;
- (h) "National Council" means the National Council for clinical establishments established under section 3 of the Clinical Establishments (Registration and Regulation) Act, 2010 (Central Act 23 of 2010);
- (i) "National register" means the register maintained by the Central Government under section 39 of the Clinical Establishments (Registration and Regulation) Act, 2010 (Central Act 23 of 2010);
- (j) "notification" means a notification published in the Official Gazette;
- (k) "Official Gazette" means the Official Gazette of the Government;
- (l) "prescribed" means prescribed by rules made under this Act;
- (m) "recognized system of medicine" means allopathy, yoga, naturopathy, ayurveda, homoeopathy, siddha and unani system of medicines or any other system of medicine as may be recognized by the Central Government;
- (n) "registration" means registration of the Clinical Establishments under this Act;
- (o) "rules" means rules made under this Act;
- (p) "standards" means the conditions that are specified in section 9 for the registration of clinical establishments;
- (q) "State" means the State of Goa;
- (r) "state register" means the register maintained by the authority and the Government under sections 34 and 35 respectively of this Act containing the number of clinical establishments registered;

(s) “to stabilize” (with its grammatical variations and cognate expressions)” means, with respect to an emergency medical condition specified in clause (e), to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability; that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a clinical establishment.

CHAPTER II

COUNCIL FOR CLINICAL ESTABLISHMENTS

3. Constitution of Council for Clinical Establishments.—(1) The Government shall, by notification, constitute a Council to be called the Goa Council for Clinical Establishments.

(2) The Council shall consist of the following members, namely:-

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|-----|--|-------|-------------------|
| (a) | Secretary to the Government of Goa
in Health Department | ----- | Chairman. |
| (b) | Dean, Goa Medical College | ----- | Member. |
| (c) | Six Representatives out of which one
to be elected by each Executive Committee of, - | | |
| | (i) Goa Medical Council | ----- | Member. |
| | (ii) Goa Dental Council | ----- | Member. |
| | (iii) Goa Nursing Council | ----- | Member. |
| | (iv) Goa State Pharmacy Council | ----- | Member. |
| | (v) Goa Board of Indian System of
Medicine and Homoeopathy
(Ayurveda and Homoeopathy) | ----- | Member. |
| | (vi) Any other Council in recognized
System of Medicine | ----- | Member. |
| (d) | Three representatives to be
elected by Indian Medical Association,
Goa branch | ----- | Members. |
| (e) | One representative from paramedical
systems but other than from clause (c)
to be nominated by the Government | ----- | Member. |
| (f) | One representative to be elected by
Members of Association of Private
Nursing Homes in the State of Goa. | ----- | Member. |
| (g) | Two representatives to be nominated
by the Government | ----- | Members. |
| (h) | Director of Health Services,
Government of Goa | ----- | Member-Secretary. |

- (3) The elected and the nominated members of the Council, shall hold office for three years, but shall be eligible for re-election or re-nomination for one more term of three years only:

Provided that the person nominated or elected, as the case may be, shall hold office for so long as he holds the appointment of the office by virtue of which he was nominated or elected, as the case may be, to the Council.

- (4) The allowances payable to the members of the Council other than ex-officio members shall be such as may be prescribed by the Government.

4. *Disqualification for appointment as member.*—A person shall be disqualified for being elected or nominated or for continuing as a member of the Council if he, —

- (a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Government, involves moral turpitude; or
- (b) has been charge-sheeted in any crime where punishment is imprisonment; or
- (c) is an undischarged insolvent; or
- (d) is of unsound mind, and stands so declared by a competent court ; or
- (e) has been removed or dismissed from the service of the Government or a corporation owned or controlled by the Government; or
- (f) is a whole time Officer or servant of the Council; or
- (g) has, in the opinion of the Government, such financial or other interest in the Council as is likely to affect prejudicially the discharge by him of his functions as a member.

5. *Functions of the Council.*—The Council shall perform the following functions, namely: ---

- (a) compiling and updating the State Register of clinical establishments;
- (b) sending monthly returns for updating the National Register of clinical establishments;
- (c) representing the State in the National Council;
- (d) hearing of appeals against the Orders of the authority;
- (e) publication on annual basis a report on the state of implementation of standards by the clinical establishments;
- (f) ensure implementation of minimum standards;
- (g) perform any other function determined by the Government from time to time.

6. **Power to seek advice or assistance.**—The Council may associate with itself any person or body whose assistance or advice it may desire in carrying out any of the provisions of this Act.

CHAPTER III

REGISTRATION AND STANDARDS FOR CLINICAL ESTABLISHMENTS

7. **Appointment of an authority.**—The Government shall, by notification, set up an authority to be called the District Registering Authority for each district for registration of clinical establishments, with the following members, namely :-

- (a) District Collector ----- Chairperson.
- (b) Representative of Indian Medical Association, Goa branch, as nominated by it ----- Member.
- (c) Representative of Private Nursing Homes, as nominated by it ----- Member.
- (d) Representative of Goa Board of Indian System of Medicine and Homoeopathy, as nominated by the Government ----- Member.
- (e) Two members as nominated by the Government ----- Members.
- (f) One member, each from (i) Goa Dental Council; (ii) Goa Nursing Council; (iii) Goa Pharmacy Council; and (iv) Goa Medical Council, as nominated by the Government. ----- Members.
- (g) Medical Superintendent of the Government District Hospital ----- Member-Secretary.

8. **Registration for Clinical Establishments.**—No person shall run a clinical establishment unless it has been duly registered in accordance with the provisions of this Act.

9. **Conditions for registration.**— (1) For registration and continuation, every clinical establishment shall fulfill the following conditions, namely:—

- (i) the minimum standards of facilities and services as may be prescribed;
- (ii) the minimum requirement of personnel as may be prescribed;
- (iii) appointment of a grievance redressal officer;
- (iv) provisions for maintenance of medical records and reporting as may be prescribed;
- (v) such other conditions as may be prescribed.

(2) In clinics run by single doctor the doctor himself shall be a grievance officer. The name of the grievance officer and his contact number shall be displayed in a prominent place in the clinical establishment. Any complaint submitted shall be responded within 15 days, failing which, the complainant shall be free to approach the authority.

(3) The clinical establishment shall undertake to provide within the staff and facilities available, such medical examination and treatment as may be required to stabilize the emergency medical condition of any individual who comes or is brought to such clinical establishment.

10. Classification of Clinical Establishments.— (1) Clinical establishments of different systems shall be classified into such categories as may be prescribed.

(2) Different standards may be prescribed for different categories referred to in sub-section (1):

Provided that in prescribing the standards for clinical establishments, the Government shall have regard to the local conditions.

PROCEDURE FOR REGISTRATION

11. Application for provisional certificate of registration.—(1) For the purposes of provisional certificate of registration of the clinical establishment, an application in such form along with such fee and details as may be prescribed, shall be made to the authority.

(2) The application shall be made in person, or by post, or online.

(3) If any clinical establishment is in existence at the time of the commencement of this Act, an application for its registration shall be made within three months from the date of the commencement of this Act and a clinical establishment which comes into existence after the commencement of this Act shall apply for its registration before starting its operations.

(4) If any clinical establishment is already registered under any existing law requiring registration of such establishment, even then it shall apply for registration as referred to in sub section (1).

(5) If any clinical establishment is offering services in more than one category then such establishment shall apply for separate registration for each such category:

Provided that if diagnostic centre (basic lab facilities) is a part of the hospital, no separate registration is required.

12. Provisional Certificate.—The authority shall, within a period of ten days from the date of receipt of application under section 11, grant to the applicant a certificate of provisional registration in such form and containing such particulars and such information, as may be prescribed.

13. No inquiry prior to provisional registration.—(1) The authority shall not conduct any inquiry prior to the grant of provisional registration.

(2) Notwithstanding the grant of the provisional certificate of registration, the authority shall, within a period of forty-five days from the grant of provisional registration, cause to be published in such manner, as may be prescribed, all particulars of the clinical establishment so registered provisionally.

14. Validity of provisional registration.—Subject to the provisions of section 20, every provisional registration shall be valid to the last day of the twelfth month from the date of issue of the certificate of provisional registration and such registration shall be renewable.

15. Display of certificate of registration.—The certificate shall be affixed in a conspicuous place in the clinical establishment in such manner so as to be visible to everyone visiting such establishment.

16. Duplicate certificate .—In case the certificate is lost, destroyed, mutilated or damaged, the authority shall issue a duplicate certificate, on the request of the clinical establishment, on the payment of such fees as may be prescribed.

17. Certificate to be non-transferable.—(1) The certificate of registration shall be non-transferable.

(2) In the event of change of ownership or management, the clinical establishment shall inform the authority of such change in such manner as may be prescribed.

(3) In the event of change of category or location, or on ceasing to function as a clinical establishment, the certificate of registration in respect of such clinical establishment shall be surrendered to the authority and the clinical establishment shall apply afresh for grant of certificate of registration.

18. Publication of expiry of registration.—The authority shall cause to be published within such time and in such manner, as may be prescribed, the names of clinical establishments whose registration has expired.

19. Renewal of provisional registration.—The application for renewal of provisional registration shall be made within thirty days before the expiry of the validity of the certificate of provisional registration accompanied by renewal fee as prescribed and, in case the application for renewal is made after the expiry of the provisional registration, the authority shall allow renewal of registration on payment of such enhanced fees, as may be prescribed.

20. Time limit for provisional registration.—Where the clinical establishment in respect of which standards have been notified by the Government, provisional registration shall not be granted or renewed beyond:

- (i) the period of two years from the date of notification of the standards in case of clinical establishments which come into existence before the commencement of this Act;
- (ii) the period of two years from the date of notification of the standards for clinical establishments which come into existence after the commencement of this Act but before the notification of the standards; and,
- (iii) the period of six months from the date of notification of standards for clinical establishments which come into existence after standards have been notified.

21. Application for permanent registration.—Application for the permanent registration by a clinical establishment shall be made to the authority in such form and be accompanied by such fees as may be prescribed.

22. Verification of application.—The clinical establishment making application under section 21 shall submit evidence of having complied with the prescribed minimum standards in such manner as may be prescribed.

23. Display of information for filing objections.—As soon as the clinical establishment submits the required evidence of having complied with the minimum standards, the authority shall cause to be displayed for information of the public at large and for filing objections, if any, in such manner, as may be prescribed, all evidence submitted by the clinical establishment of having complied with the minimum standards for a period of thirty days before processing for grant of permanent registration.

24. Communication of objections.—If objections are received within the period referred to in the preceding section, such objections shall be communicated to the clinical establishment for response within a period of forty-five days of its receipt.

25. Standards for permanent registration.—Permanent registration shall be granted only when a clinical establishment fulfils the conditions for registration specified in section 9.

26. Allowing or disallowing of registration.—The authority shall pass an Order within the next thirty days thereafter either,—

- (a) allowing the application for permanent registration; or
- (b) disallowing the application:

Provided that the authority shall record its reasons, if it disallows an application for permanent registration.

27. Certificate for permanent registration.—(1) The authority shall, if it allows an application of the clinical establishment, issue a certificate of permanent registration in such form and containing such particulars, as may be prescribed.

(2) The certificate shall be valid for a period of five years from the date of issue.

(3) For the purposes of sub-section (1), the provisions of sections 15, 16, 17 and 18 shall also apply.

(4) The application for renewal of permanent registration shall be made within six months before the expiry of the validity of the certificate of permanent registration accompanied by renewal fee as prescribed and, in case the application of renewal is not submitted within said period, the authority may allow renewal of registration on payment of such enhanced fees as may be prescribed.

28. Fresh application for permanent registration.—The disallowing of an application for permanent registration shall not debar a clinical establishment from applying afresh for permanent registration under section 21 and after providing such evidence, as may be required, of having rectified the deficiencies on which grounds the earlier application was disallowed.

29. Cancellation of registration.—(1) If, at any time, after any clinical establishment has been registered, the authority is satisfied that,-

- (a) the conditions of the registration are not being complied with; or
- (b) such clinical establishments has engaged the services of any doctor or paramedical staff appointed by the Government or Public Sector undertaking except in emergency cases; or
- (c) the person entrusted with the management of the clinical establishment has been imposed penalty thrice as provided in section 38 of this Act; it may issue a notice to the clinical establishment to show cause within thirty

days time as to why it's registration under this Act should not be cancelled for the reasons to be mentioned in the notice.

(2) If, after giving a reasonable opportunity to the clinical establishment, the authority is satisfied that there has been a breach of any of the provisions of Act or the rules made thereunder, it may, by an order, without prejudice to any other action that it may take against such clinical establishment, cancel its registration.

(3) Every order made under sub-section (2) shall take effect —

(a) where no appeal has been preferred against such order, immediately on the expiry of the period prescribed for such appeal; and

(b) where such appeal has been preferred and it has been dismissed, from the date of the order of such dismissal:

Provided that the authority, after cancellation of registration, for reasons to be recorded in writing, may restrain immediately the clinical establishment from carrying on if there is imminent danger to the health and safety of patients.

30. *Inspection of registered clinical establishments.*—(1) The authority or an officer authorized by it shall have the right to cause an inspection of, or inquiry in respect of, any registered clinical establishment, its building, laboratories and equipment and also of the work conducted or done by the clinical establishment, to be made by such multi-member inspection team as it may direct and to cause an inquiry to be made in respect of any other matter connected with the clinical establishment and that establishment shall be entitled to be represented thereat.

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

(3) The clinical establishment shall report to the authority, the action, if any, which is proposed to be taken or has been taken upon the results of such inspection or inquiry and such report, shall be furnished within such time, as the authority may direct.

(4) Where the clinical establishment does not, within a reasonable time, take action to the satisfaction of the authority, it may, after considering any explanation furnished or

representation made by the clinical establishment, issue such directions as that authority deems fit, and the clinical establishment shall comply with such directions.

31. Power to enter.—The authority or an officer authorized by it may, if there is any reason to suspect that anyone is carrying on a clinical establishment without registration, enter and search in the manner prescribed, at any reasonable time and the clinical establishment shall offer reasonable facilities for inspection or inquiry and be entitled to be represented thereat:

Provided that no such person shall enter the clinical establishment without giving notice of his intention to do so.

32. Levy of fees by Government.—The Government may charge fees for different categories of clinical establishments as may be prescribed.

33. Appeal.—(1) Any person, aggrieved by an order of the authority refusing to grant or renew a certificate of registration or cancelling or revoking a certificate of registration may, in such manner and within such period as may be prescribed, prefer an appeal to the Council:

Provided that the Council may entertain an appeal preferred after the expiry of the prescribed period if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) Every appeal under sub-section (1) shall be made in such form and be accompanied by such fee as may be prescribed.

CHAPTER IV

REGISTER OF CLINICAL ESTABLISHMENTS

34. Register of clinical establishments.—(1) The authority shall, within a period of one year from its establishment, compile, publish and maintain in digital format a register of clinical establishments, registered by it and it shall enter the particulars of the certificate so issued in a register to be maintained in such form and manner, as may be prescribed by the Government.

(2) Each authority, shall supply in digital format to the Council a copy of every entry made in the register in such manner, as may be prescribed to ensure that the State Register is constantly up-to-date with the registers maintained by the registering authority in the State.

35. Maintenance of State Register of clinical establishments.—(1) The Government shall maintain in digital and in such form and containing such particulars,

as may be prescribed, a State Register of clinical establishments in respect of clinical establishments in the State.

(2) The Government shall supply in digital format to the Central Government a copy of the State Register and shall inform the Central Government all additions to and other amendments in such register made, for a particular month by the 15th day of the following month.

36. *Furnishing of returns.*— Every clinical establishment shall, within such time or within such extended time, as may be prescribed in that behalf, furnish to the authority or the Council such returns or the statistics and other information in such manner, as may be prescribed by the Government from time to time.

37. *Information to be submitted.* —The clinical establishment other than that of the Government shall not allow any doctor or para medical staff or other employee of the Government or public sector undertaking to carry out any work therein without express permission from the Government, except in an emergency case. The clinical establishment shall report to the authority the name of any doctor or para-medical staff or employee, whose services are/were being utilized in the clinical establishment, alongwith details of the emergency case.

CHAPTER V

PENALTIES

38. *Penalty.*—(1) Whoever carries on a clinical establishment without registration and in contravention of section 8 shall be punishable with summary closure of the facility and fine which may extend to, fifty thousand rupees for first contravention, two lakhs rupees for second contravention and five lakhs rupees for any subsequent contravention.

(2) Whoever carries on a clinical establishment or appoints any person therein or carries on a clinical practice, without the required medical qualifications shall be punishable with fine of Rupees one lakh and the registration of such clinical establishment shall be cancelled.

(3) Whoever knowingly serves in a clinical establishment which is not duly registered under this Act, shall be punishable with fine which may extend to twenty-five thousand rupees.

(4) where a doctor or para-medical staff or other employee of the Government or public sector undertaking is found working in any private clinical establishment, the registration of such private clinical establishment shall be cancelled by following the procedure laid down under section 29 and such doctor or para-medical staff or employee shall be liable

for the departmental disciplinary action under the relevant rules for the time being in force, and also punishable with fine which may extend to twenty-five thousand rupees for first contravention and two lakhs rupees for every subsequent contravention.

Provided that no such fine shall be imposed nor such departmental disciplinary action shall be initiated where the services of such doctor or para-medical staff or employee have been utilized in an emergency case, without payment of any remuneration to him and he immediately informs his employer in writing about the services rendered by him and the nature of the emergency case.

(5) Whoever contravenes any provision of this Act shall, if no specific penalty is provided, be punishable with fine which may extend to, ten thousand rupees, for first contravention, fifty thousand rupees for second contravention and five lakhs rupees for any subsequent contravention.

(6) Before imposing fine under sub-sections (1), (2), (3), (4) and (5), the authority shall hold an inquiry in the prescribed manner by giving to the person concerned a reasonable opportunity of being heard.

(7) While holding an inquiry the authority shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the authority, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, it is satisfied that the person has committed the acts contravened as specified in sub-sections (1), (2), (3), (4) or (5), it may, by order, impose the fine specified in those sub-sections to be deposited within thirty days of the order in such account as the Government may by order specify in this behalf.

(8) While determining the quantum of fine, as specified in sub-section (5), the authority shall take into account the financial position of the person, category, size and type of the clinical establishment and local conditions of the area in which clinical establishment is situated.

(9) Any person aggrieved by the decision of the authority may prefer an appeal to the Council within a period of three months from the date of the said decision.

(10) The manner of filing the appeal referred to in sub-section (9) shall be such as may be prescribed.

39. Disobedience of directions, obstruction and refusal of information.—

(1) 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 functions which such person or authority is required or empowered under this Act to discharge, shall be liable to a penalty which may extend to five lakh rupees.

(2) 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 liable to a penalty which may extend to five lakh rupees.

(3) For the purpose of adjudging under sub-sections (1) and (2), the authority shall hold an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(4) While holding an inquiry the authority shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the authority, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, it is satisfied that the person has failed to comply with the provisions specified in sub-sections (1) and (2), it may by order impose the penalty specified in those sub-sections to be deposited within thirty days of the order in the account of the Government.

(5) While determining the quantum of penalty under this section, the authority shall take into account the category, size and type of the clinical establishment and local conditions of the area in which the establishment is situated.

(6) Any person aggrieved by the decision of the authority may prefer an appeal to the Council within a period of three months from the date of the said decision.

(7) The manner of filing the appeal referred to in sub-section (6) shall be such as may be prescribed.

(8) The penalty levied under sections 38 and 39 shall be credited to such account as the Government may by order specify in this behalf.

40. Contravention by Companies.—(1) Where a person committing contravention of any of the provisions of this Act or of any rule made thereunder is a company, every person who, at the time the contravention 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 contravention and shall be liable to fine:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention was committed without his

knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule made thereunder has been committed by a company and it is proved that the contravention has taken place 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 contravention and shall be liable to fine.

Explanation—For the purpose of this section,—

(a) “company” means a 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.

41. Offences by Government Departments.—(1) Where an offence under this Act has been committed by any Department of Government, the Head of the Department 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 section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of Government 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 officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded and punished accordingly.

42. Recovery of fine.—Whoever fails to pay the fine, the Council may prepare a certificate signed by an officer authorized by it specifying the fine due from such person and send it to the Collector of the District in which such person owns any property or resides or carries on his business and the said Collector, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder, as if it were an arrear of land revenue.

CHAPTER VI

MISCELLANEOUS

43. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceedings shall lie against any authority or any member of the Council or any

officer authorized in this behalf in respect of anything, which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule made thereunder.

(2) No suit or other legal proceedings shall lie against the Government in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule made thereunder.

44. Power to give directions.—Without prejudice to the foregoing provisions of this Act, the authority shall have power to issue such directions, including furnishing returns, statistics and other information for the proper functioning of clinical establishments and such directions shall be binding.

45. Employees of the authority etc. to be public servants.—Every employee of the authority and the Council shall be deemed to, when acting or purporting to act in pursuance of any of the provisions of this Act, be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

46. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removal of the difficulty:

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

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before the Legislative Assembly.

47. Power to make rules.—(1) The Government may, by notification, make rules for carrying out all or any of 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:—

- (i) allowances payable to the members of the Council under sub-section (4) of section 3;
- (ii) minimum standards of facilities and services under clause (i) of sub-section (1) of section 9;
- (iii) minimum requirement of personnel under clause(ii) of sub-section (1) of section 9;

- (iv) the maintenance of medical records and reporting by the clinical establishment under clause (iv) of sub-section (1) of section 9;
- (v) other conditions for registration under clause (v) of sub-section (1) of section 9;
- (vi) classification of clinical establishments under sub-section (1) of section 10;
- (vii) standards for different categories of clinical establishments under sub-section (2) of section 10;
- (viii) the form of application, fee and details under sub-section (1) of section 11;
- (ix) the form of, and the particulars and information to be contained in, the certificate of provisional registration under section 12;
- (x) the manner of publication of all particulars of the clinical establishments under sub-section (2) of section 13;
- (xi) the fees to be paid to issue a duplicate certificate under section 16;
- (xii) the manner of informing the change of ownership or management of the clinical establishment to the authority under sub-section (2) of section 17;
- (xiii) the manner in which the authority shall publish the names of the clinical establishments whose registration has expired under section 18;
- (xiv) the renewal fee and enhanced fees to be charged for renewal after expiry of the provisional registration under section 19;
- (xv) the form of the application and fees to be paid for permanent registration of clinical establishment under section 21;
- (xvi) the manner of submitting evidence of the clinical establishments having complied with the minimum standards under section 22;
- (xvii) the manner of displaying information of the clinical establishments having complied with the minimum standards for filing of objection under section 23;
- (xviii) the form and particulars of the certificate of permanent registration under sub-section (1) of section 27;
- (xix) renewal fee and enhanced fees under sub-section (4) of section 27;
- (xx) the manner of entry and search of clinical establishments under section 31;
- (xxi) the fees to be charged by the Government for different categories of clinical establishments under section 32;

- (xxii) the manner and period within which an appeal may be preferred to the council under sub-section (1) of section 33 ;
- (xxiii) the form and fees to be paid for an appeal under sub-section (2) of section 33;
- (xxiv) the form and manner in which the State Register to be maintained under sub-section (1) of section 34;
- (xxv) the manner of supply to the council in digital format the entry made in the register under sub-section (2) of section 34;
- (xxvi) the form of the State Register and the particulars to be contained therein under sub-section (1) of section 35;
- (xxvii) the manner and time within which returns, statistics and other information to be furnished to the authority or council under section 36;
- (xxviii) the manner of holding an inquiry by authority under sub-section (6) of section 38 and sub-section (3) of section 39;
- (xxix) the manner of filing an appeal under sub-section (10) of section 38 and sub-section (7) of section 39;
- (xxx) any other matter which is required to be or may be prescribed by the Government.

(3) Every rule made by the Government under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly of Goa while it is in session, for a total period of fourteen days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the House agrees in making any modification in the rule or 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 annulment shall be without prejudice to the validity of anything previously done under that rule.

48. *Repeal and savings.*—(1) The Goa Medical Practitioners Act, 2004 (Goa Act 9 of 2004) is hereby repealed.

(2) Notwithstanding such repeal,—

(a) anything done or any action taken under the repealed Act shall be deemed to have been done or taken under the corresponding provisions of this Act;

(b) all applications made under the repealed Act for registration or renewal prior to the commencement of this Act and pending consideration on the date of

commencement of this Act shall abate and the fee paid, if any, in respect of such application shall be refunded to the applicant and such applicants may apply afresh for registration under the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to provide registration and regulation of clinical establishments in the State of Goa and for that purpose, interalia, seeks to constitute the Goa Council for Clinical Establishments.

The Bill also seeks to lay down the conditions for registration of clinical establishments including the minimum standards of facilities and services by the clinical establishments.

The Bill also seeks to repeal the Goa Medical Practitioners Act, 2004 (Goa Act 9 of 2004).

This Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

Requisitioning of the services of two Data Entry Operators through Infotech Corporation of Goa.

An honorarium of Rs. 1500/- to be paid to the members of Council as Sitting fees. These expenses besides expenses towards purchase of office furniture, computer and other material will be to the tune of Rs.10.00 lakh per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 1 (3) of the Bill empowers the Government to appoint a date by Notification in the Official Gazette for bringing into force the Act.

Clause 3 (1) of the Bill empowers the Government to issue Notification for constituting a Goa Council for Clinical Establishments.

Clause 3 (4) of the Bill empowers the Government to frame rules for specifying allowances to be payable to the members of the Goa Council for Clinical Establishment.

Clause 7 of the Bill empowers the Government to set up the District Registering Authority by Notification in the Official Gazette.

Clause 9 (1) (i) of the Bill empowers the Government to frame rules to specify the minimum standards of facilities and services required for clinical establishment.

Clause 9 (1)(ii) of the Bill empowers the Government to frame rules specifying the minimum requirement of personnel required for the clinical establishments.

Clauses 9 (1) (iv) and (v) of the Bill empowers the Government to frame rules specifying the provisions for maintenance of medical records and reporting by the Clinical Establishment and other conditions of registration.

Clause 10(1) of the Bill empowers the Government to frame rules to classify the clinical establishments into different categories.

Clause 10 (2) of the Bill empowers the Government to frame rules specifying different standards for different categories of clinical establishments.

Clauses 11(1) of the Bill empowers the Government to frame rules specifying the form or application and details of an application for registration of clinical establishment and fee to be accompanied therewith.

Clause 12 of the Bill empowers the Government to frame rules specifying the form of certificate of provisional registration, and the particulars and information it should contain.

Clause 13(2) of the Bill empowers the Government to frame rules specifying the manner in which all particulars of the clinical establishment to be published by the District Registering Authority.

Clause 16 of the Bill empowers the Government to frame rules specifying the fees to be paid for duplicate certificate.

Clause 17 of the Bill empowers the Government to frame rules specifying the manner in which the change of ownership or management of the clinical establishment shall be informed to the District Registering Authority.

Clause 18 of the Bill empowers the Government to frame rules specifying the time within which and the manner in which the names of clinical establishments whose registration has expired to be published.

Clause 19 of the Bill empowers Government to frame rules specifying the renewal fee and enhanced fees to be paid in case the application for renewal of registration is made after the expiry of the provisional registration.

Clause 21 of the Bill empowers the Government to frame rules specifying the form in which an application for the permanent registration by the clinical establishment shall be made and the amount of fee to be accompanied with such application.

Clause 22 of the Bill empowers the Government to frame rules specifying the manner in which, the evidence in respect of compliance of the minimum standards is to be submitted by the Clinical Establishment.

Clause 23 of the Bill empowers the Government to frame rules specifying the manner in which evidence submitted by the clinical establishment shall be displayed.

Clause 27(1) of the Bill empowers the Government to frame rules specifying the form in which certificate of permanent registration to be issued and the particulars it should contain.

Clause 27(4) of the Bill empowers the Government to frame rules specifying the renewal fee and enhanced fees to be paid in case the application for renewal of certificate of permanent registration is made after expiry of validity of the certificate of permanent registration.

Clause 31 of the Bill empowers the Government to frame rules specifying the manner in which authority or officer may enter and search the clinical establishment.

Clause 32 of the Bill empowers the Government to frame rules specifying the fees to be charged for different categories of clinical establishments.

Clause 33(1) of the Bill empowers the Government to frame rules specifying the manner in which and the period within which an appeal to the Council is to be made against the order of the authority.

Clause 33(2) of the Bill empowers the Government to frame rules specifying the form and manner in which an appeal to be made and the amount of fees to be accompanied with such appeal.

Clause 34(1) of the Bill empowers the Government to frame rules specifying the form of register to be maintained.

Clause 34(2) of the Bill empowers the Government to frame rules specifying the manner in which entry is to be made in the register.

Clause 35(1) of the Bill empowers the Government to frame rules specifying the form of the State Register and the particulars it shall contain.

Clause 36 of the Bill empowers the Government to frame rules specifying the manner in which returns, statistics and other information to be furnished to the District Registering Authority or Council and the time within which it is to be furnished.

Clause 38 (6) of the Bill empowers the Government to frame rules for specifying the manner in which inquiry is to be made by the Authority.

Clause 38 (7) of the Bill empowers the Government to issue order for specifying the account of the Government for depositing fine.

Clause 38 (10) of the Bill empowers the Government to frame rules for specifying the manner of filing the appeal under sub-clause (9) of clause 38 before the Council.

Clause 39 (3) of the Bill empowers the Government to frame rules for specifying the manner in which inquiry is to be made by the Authority.

Clause 39(7) of the Bill empowers the Government to frame rules for specifying the manner of filing the appeal under sub-clause (6) of clause 39 before the Council.

Clause 46 of the Bill empowers the Government to issue an order for the purpose of removing any difficulty which may arise in giving effect to the provisions of the Act.

Clause 47 of the Bill empowers the Government to make rules for carrying out the provisions of the Act.

These delegations are of normal character.

Porvorim, Goa.
August, 2019.

Shri Vishwajit P. Rane
Minister for Health

Assembly Hall,
Porvorim, Goa.
August, 2019.

Smt. Namrata Ulman
Officiating Secretary to the
Legislative Assembly of Goa