

SPECIAL LEGISLATION ON AIDS: AN ABORTED ATTEMPT

1. A Bill to provide for the prevention and control of the spread of Human Immuno Deficiency Virus (HIV) infection and to provide for specialised medical treatment and social support to, and rehabilitation of, persons suffering from Acquired Immuno Deficiency Syndrome (AIDS) and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Acquired Immuno Deficiency Syndrome (AIDS) Prevention Act, 1989.
 - (2) It shall extend to the whole of India except the State of Jammu and Kashmir.
 - (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires:-
 - (a) "AIDS" means Acquired Immuno Deficiency Syndrome in a person resulting from HIV infection;
 - (b) "designated health authority" means an authority designated as such by a State Government under section 3;
 - (c) "HIV" means Human Immuno Deficiency Virus;
 - (d) "HIV infection" means the presence in the body of a person of HIV antibodies or antigens detected on the basis of test;
 - (e) "prescribed" means prescribed by rules made under this Act;
 - (f) "registered medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956 and whose name has been entered in a State Medical Register;
 - (g) "surveillance centre" means a surveillance centre established under section 8;
 - (h) "test" means a serological procedure followed for detection of HIV antibodies or antigens in the body of a person.

CHAPTER II

APPOINTMENT OF DESIGNATED HEALTH AUTHORITIES

3. Every State Government shall, by notification in the Official Gazette, appoint such person or authority as it may deem fit as the designated health authority and define the local limits within which such authority shall exercise the powers and discharge the functions conferred or imposed on it by or under this Act.
4. Every registered medical practitioner who, in the course of his practice becomes cognizant of the existence of any case of HIV infection in a person, a person suffering from AIDS or a drug addict in any private or public dwelling, hospital, nursing home or any other place, shall give information of such person in such form and manner as may be prescribed and with the least practicable delay to the designated health authority within whose local limits he is practising.

Explanation - For the purposes of this section "drug addict" means an addict within the meaning of the Narcotic Drugs and Psychotropic Substances Act, 1985.

5. On the receipt of information under section 4 or from any other source, the designated health authority shall have power to direct the person referred to in section 4 -
 - (a) to furnish such information as that authority may require from him for initiating action under section 7 and section 9;
 - (b) to submit himself for test;
 - (c) to remove himself forthwith to a hospital or other place for special care and medical treatment where the authority considers it necessary so to do in the interests of such person and also to prevent the spread of HIV infection.
6. The designated health authority may, having regard to, the kinds of persons frequenting, or living in, any area or areas within its local limits, who are exposed to greater risk of acquiring or transmitting HIV infection or, any other relevant consideration, provide facilities and make necessary arrangements for such person to undergo test.
7. The designated health authority shall, on receipt of information under section 4 or from any other source, take steps to provide for-
 - (a) counselling by qualified and specially trained persons;
 - (b) health education;
 - (c) specialised medical treatment;
 - (d) periodical clinical and serological follow-up action;

(e) social support (including rehabilitation);

to the HIV infected persons and persons suffering from AIDS and also take such other precautionary steps to prevent the spread of HIV infection as it may deem necessary.

CHAPTER III

SURVEILLANCE AND REHABILITATION

8. The Central Government, after consultation with a State Government, may, by notification in the Official Gazette, establish one or more surveillance centres in the State for the purposes of this Act.
9. (1) Every surveillance centre shall conduct clinical or laboratory tests or shall cause such tests to be conducted for the purposes of detecting, determining or monitoring the rate of HIV infection or for identifying the persons so infected amongst the general public or selected groups of persons.

(2) Where a person has been detected to be having HIV infection or as suffering from AIDS, the designated health authority may require the surveillance centre to take steps to trace the sources from which such person has acquired HIV infection and the sources through which he might have transmitted the infection to others.

CHAPTER IV

MISCELLANEOUS

10. (1) No person who knows that he is infected with HIV or is suffering from AIDS shall donate his blood, any organ or semen to any blood bank, hospital, laboratory or any other institution.

(2) No professional blood donor shall give blood to any blood bank, hospital, laboratory or any other institution unless he has got his blood tested every time he gives blood for the presence of HIV antibodies in his blood and such test has proved that it is free from HIV antibodies.

Explanation - For the purpose of this section, the expression "professional blood donor" means a person who gives his blood more than once within a period of three months and for monetary consideration.

11. No suit, prosecution or other legal proceeding shall lie against the designated health authority or any person for anything which is in good faith done or intended to be done under this Act.
12. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out 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:-
- (a) the form and manner in which particulars regarding the persons infected with HIV or persons suffering from AIDS or drug addicts may be sent to the designated health authority under section 4;
 - (b) the qualifications and experience of persons who may be appointed for counselling under section 7;
 - (c) the qualifications and experience of-
 - (i) doctors and nurses; and
 - (ii) laboratory technicians and other technical personnel, associated with surveillance centres, hospitals or other places meant for the special care and treatment of persons infected with HIV or persons suffering from AIDS;
 - (d) the facilities and equipments required to be provided at a surveillance centre for the purposes of section 9;
 - (e) any other matter which is required to be, or may, prescribed.
- (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree 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.