

The Medical Termination of Pregnancy (Amendment) Act, 2021, India



■ Introduction

Termination of pregnancy in India is legal under certain conditions. In 1971, the Government of India passed the Medical Termination of Pregnancy Act. Till 1971, pregnancy termination or abortion was a punishable criminal offense under Section 312 of the Indian Penal Code. In 1964, in response to high population growth, maternal mortality and alarming incidence of unsafe abortions, the Government of India had set up the Shantilal Committee to review the socio-cultural, legal and medical aspects of abortion. The committee report proposed legalisation of abortion services under specific conditions. These recommendations took the shape of the MTP Act of 1971. The Act has been amended thrice, in 2002, 2003 and recently in 2021. There are specific provisions (given below) under the MTP Act and flouting of these is considered a punishable offence under Section 312 with rigorous imprisonment for 2 to 7 years.

■ Indications for termination


Pregnancy can be terminated if

- its continuance involves a risk to the life or health of the pregnant woman;
- it is caused by rape;
- it is caused by failure of contraceptive; (Under the amended Act, even in case of unmarried women); and
- there is a substantial risk that the child born would be handicapped either physically or mentally

■ Period of gestation for termination

After the amendment in 2021, pregnancy termination using medication has been permitted upto 9 weeks of gestation. Pregnancy can now be terminated upto 24 weeks.



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- With opinion of 1 registered medical practitioner if pregnancy is less than 20 weeks of gestation
 - With opinion of 2 registered medical practitioners if pregnancy is between 20-24 weeks of gestation

However, the upper gestation limit from 20 to 24 weeks would be applicable to certain categories of women specified in the rules that have been framed. In case of substantial foetal abnormalities, pregnancy termination even after 24 weeks would be permitted on recommendations of a State medical board. The medical board has to give a decision within three days and the termination has to be conducted within five days of that decision.

■ Medical board

Each State Government or Union territory, through notification in the Official Gazette would constitute a medical board with a Gynaecologist; a Paediatrician; a Radiologist or Sonologist and any other members as notified by the Government.

■ Service providers


Pregnancy can be terminated **only** by

- Registered medical practitioners (Allopathic doctors) with experience or training in gynaecology or obstetrics as prescribed under the rules.

■ Place for termination

- Health facilities / centres established or maintained by government above Primary Health Centre level are automatically approved for abortion service provision
- In private sector, health facilities / centres approved by a district level committee set up for the purpose of this Act by Government.
- For provision of first trimester terminations, health facilities / centres have to be equipped with an examination table; drugs and intra-venous fluids for emergency use; back up amenities for treatment of shock and transport. For provision of second trimester terminations, in addition to the amenities mentioned above, health facilities / centres have to be equipped with operation table, surgical instruments and anaesthetic equipment. Facilities registered for second trimester abortions under the earlier Act, are automatically registered for service provision upto 24 weeks. Those beyond 24





weeks have to be conducted under ultrasound guidance and hence in a facility equipped with ultrasound machine and licensed under the PCPNDT Act.

- For termination using medication, registered medical practitioners approved under the Act can provide Medical Abortion (MA) pills in any facility/clinic, provided she / he has access to an approved facility/clinic in case of any complications and if a certificate from owner of approved facility/clinic agreeing to provide access is displayed prominently.


■ Provision of Services

In the course of provision of pregnancy termination service

- Consent of only the woman seeking termination is sought except if she is less than 18 years of age or is "mentally ill" i.e. in need of treatment for mental disorder in which case legal guardian's consent is sought. Spousal or any other family member's signature is not required under the Act
- Personal details of the woman undergoing termination are kept confidential.

The 2021 amendment clearly articulates that no registered medical practitioner will reveal the personal details of the woman whose pregnancy has been terminated under this Act except to a person authorised by any law for the time being in force. Any contravention of these provisions will be punishable with imprisonment upto one year or with fine, or with both.

■ Methods of termination

- **Medical:** Permitted upto 9 weeks or 63 days of gestation. A combination of 1 tablet of 200 mgs of Mifepristone is administered by mouth followed 36-48 hours later by two tablets of Misoprostol 200 mcg vaginally orally under the tongue or in the cheek. The Central Drugs Standard Control Organisation, Directorate General of Health Services has approved a Combipack of 200 mg tablet of Mifepristone and four tablets of Misoprostol 200 mcg for use upto 63 days of gestation. The medication has to be available on presentation of service provider's prescription and administration of the drugs has to be under medical supervision.
 - **Surgical:** Upto 12 weeks of gestation manual (MVA) and electric vacuum aspiration (EVA) is done. For gestation beyond 12 weeks, dilatation and evacuation has to be done under anaesthesia.
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■ Abortion Legislation Timeline

- Till 1971 Abortion criminalized under Section 312 of the IPC, except for saving the woman's life
- 1964 Ministry of Health and Family Planning constitutes Shantilal Shah committee
- 1966 Shantilal Shah committee report submitted
- 1970 Shantilal Shah committee recommendations accepted & introduced as a bill in the parliament
- 1971 MTP bill passed by the parliament
- 1972 MTP Act enforced in all States except Jammu & Kashmir. Section 312 of IPC remains in force.
MTP Act is only an exception to it
- 1975 MTP rules & regulations framed
- 2002 MTP Act amended to decentralize approval process for a private place, to replace the word 'lunatic' with 'mentally ill person' & to introduce stricter penalties for noncompliance
- 2003 MTP rules & regulations amended to define composition & tenure of District Level Committee, provide infrastructure guidelines & define inspection & cancellation process for approved places
- 2014 Ministry of Health and Family Welfare shared MTP Amendment bill 2014 in the public domain.
Proposed amendments included expansion of the provider base & increase in upper gestation limit for legal MTPs & clarity on the MTP Act
- 2016 MTP Amendment bill, 2016 was drafted. Proposed amendments include increase in upper gestation limit for legal MTPs & improved legal access to survivors of rape, victims of incest & single and differently-abled women
- 2021 Medical Termination of Pregnancy (MTP) Amendment Act, 2021 was passed by parliament. Framing of rules is currently on-going.



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