



Present Status of MTP Act of India after Amendment 2021

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Introduction

The MTP Act, 1971 is an act to provide termination of certain pregnancies by registered medical practitioners and for the matters related with that.

MTP bill was passed by both the houses of Parliament and got the assent of President on 10-8-1971. MTP Act 1971 came into force in India from 1st April 1972 except in Jammu and Kashmir where it became effective from 1st November 1976. Rules and regulations were framed in 1975. The act has been amended in 2002 as “MTP (amendment) Act, 2002”. This has been further amended in 2003 under the title “Medical Termination of Pregnancy Rules 2003” and “Medical Termination of Pregnancy Regulations 2003” where medical method of abortion was also included under the purview of the Act.

The Rajya Sabha had passed the Medical Termination of Pregnancy (Amendment) Bill, 2021 to amend the Medical Termination of Pregnancy Act, 1971 (“MTP Act”) on 17th March, 2021 and Parliament received the assent of the President on 25th March, 2021 and is published in Gazette for general information on 25th March, 2021. Central Government has made the Medical Termination of pregnancy (amendment) rules, 2021 by amending MTP rules, 2003. They came into force on the date of their publication in the official gazette by Ministry of health and family welfare notification in 12th October, 2021.

After fifty years there have been some significant amendments realising the remarkable developments of medical technologies, social demand and for better quality of live.

In this article latest information about the Act has been provided in comprehensive and simplified form highlighting the recent amendments. This article is written for academic purpose only not for the medicolegal purpose for which one must consult the original documents and the authority appropriate for this purpose.

Parameters of discussion

- Indication of MTPs
- Period of gestation up to when MTP is allowed
- Eligibility of service providers
- Approval of place

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- Documentation and Forms
- Information to higher authority
- MTP in minor
- Sonography
- Key features of the amendment

Indications of MTP- Grounds for MTP

In the recent amendment the upper gestation age has been extended with varying indications. Table 1 shows Indications of MTP according to length of pregnancy.

Table 1: Indications of MTP according to the length of pregnancy

Upto 20 weeks- [Like MTP Act 1971]	Beyond 20 weeks till 24 weeks [MTP (Amendment) Bill, 2021]	Beyond 24 weeks onwards** [MTP (Amendment) Bill, 2021]
<p>There is no amendment except the eligibility of woman irrespective of marital status</p> <p>1) Therapeutic 2) Eugenic 3) Humanitarian 4) Social grounds</p> <p>Therapeutic: Continuation of pregnancy endangers the life of woman or may result grave injury to physical or mental health</p> <p>Eugenic: the risk of the child to be born with serious physical or mental abnormalities</p> <p>Humanitarian: caused by rape</p> <p>Social reasons: it encompasses contraceptive failure used by any woman or her partner that may likely cause serious mental injury, or social or economic environment can injure the women's health. In the amendment 2021 any woman* irrespective of marital status is eligible for MTP on ground of contraceptive failure</p>	<p>Following categories of women shall be considered</p> <p>(a) Survivors of sexual assault or rape or incest</p> <p>(b) Minors</p> <p>(c) Change of marital status during the ongoing pregnancy (widowhood and divorce)</p> <p>(d) Women with physical disabilities [major disability as per criteria laid down under the Rights of Persons with Disabilities Act, 2016 (49 of 2016)]</p> <p>(e) Mentally ill women including mental retardation</p> <p>(f) The foetal malformation that has substantial risk of being incompatible with life or if the child is born it may suffer from such physical or mental abnormalities to be seriously handicapped</p> <p>(g) Women with pregnancy in humanitarian settings or disaster or emergency situations as declared by Government</p>	<p>The foetal malformation has substantial risk of it being incompatible with life or if the child is born it may suffer from such physical or mental abnormalities to be seriously handicapped as decided by the medical board only after due consideration and ensuring that the procedure would be safe for the woman at that gestation age</p>

* Where the length of the pregnancy does not exceed twenty weeks, where any pregnancy occurs as a result of failure of any device or method used by any woman or her partner for the purpose of limiting the number of children or preventing pregnancy, the anguish caused by such pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman (amendment 2021).

** For terminations beyond 24-week gestations no other indication is considered except substantial foetal abnormalities. Even if it is by rape there is no provision for termination in this amendment, only way is to writ petition to court.

Period of gestation up to when MTP is allowed

Upto 20 weeks MTP IS allowed in all indications. Beyond 20 weeks till 24 weeks it is allowed in some special situations. Beyond 24 weeks onwards, no upper limit of gestation is specified only in foetal malformation decided by medical board. Table 2 shows the period of gestation.

Table 2: Period of gestation up to when MTP is allowed

Period of gestation	Allowed or not
Upto 20 weeks	Allowed in all indications
Beyond 20 weeks till 24 weeks	Allowed in some special indications
Beyond 24 weeks onwards, no upper limit of gestation specified	Only foetal malformation with substantial risk as decided by the medical board

Basic differences between MTP Act 1971 and MTP (Amendment) Bill, 2021

Table 3 shows the differences

Table 3 : Basic differences between MTP Act 1971 and MTP (Amendment) Bill, 2021 with regards to period of gestation and opinion of number of practitioner/ practitioners

Period of gestation	MTP Act 1971	MTP (Amendment) Bill, 2021
Upto 12 weeks	Advice of one doctor	Advice of one doctor
12-20 weeks	Advice of two doctors	Advice of one doctor
20-24 weeks	Not allowed	Advice of two doctors for some categories of pregnant women
Beyond 24 weeks	Not allowed	Two practitioners will perform the termination based on the decision of Medical Board in case of substantial foetal abnormality irrespective of the length of pregnancy
Any time during pregnancy	One doctor if termination is immediately necessary to save the pregnant woman's life (MTP Act 1971 under section 5. Here section 3&4 are not applied. Section 3 deals with length of pregnancy and criteria of RMP and section 4 specifies the place where MTP can be done)	

Who can perform MTP (Eligibility of service providers)?

The practitioners are categorised in five groups e.g (a), (b), (c), (ca), (d) .

- (a) In case of a medical practitioner who was registered in a state medical register immediately before the date of commencement of the Acts – he or she had experience in the practice of gynaecology and obstetrics for a period of not less than three years.
- (b) In the case of a medical practitioner who was registered in a state medical register on or after the date of commencement of the Act, either
 - (i) He or she has completed six months of house surgency in gynaecology and obstetrics; or
 - (ii) He or she had experience at any hospital for a period of not less than 1 year in the practice of obstetrics and gynaecology or
- (c) He or she has assisted a registered medical practitioner in at least twenty five cases of MTP of which at least five have been performed independently in a hospital established or maintained, or a training institute approved for this purpose, by the Government
 - (i) This training would enable the Registered Medical Practitioner (RMP) to do only 1st Trimester terminations (up to 12 weeks of gestation).
 - (ii) For terminations up to twenty four weeks the experience or training as prescribed under sub rules (a), (b) and (d) shall apply “
- (ca) A Registered Medical Practitioner shall have the following experience and training for conducting termination of pregnancy upto nine weeks of gestation period by medical methods of abortion, (incorporated in amendmend 2021) namely: -
 - (i) experience at any hospital for a period of not less than three months in the practice of obstetrics and gynaecology; or
 - (ii) has independently performed ten cases of pregnancy termination by medical methods of abortion under the supervision of a Registered Medical Practitioner in a hospital established or maintained, or a training institute approved for this purpose, by the Government.”.
- (d) in case of a medical practitioner who has been registered in a State Medical Register and who holds a postgraduate degree or diploma in gynaecology and obstetrics.

For medical termination of pregnancy beyond twenty-four weeks gestation period the opinion shall be given by a Medical Board duly constituted by the respective State Government or Union territory Administration at approved facilities and two Registered Medical Practitioners eligible under clauses (a), (b) and (d) shall perform the termination of pregnancy based on the decision of such Medical Board.

Categories of doctors as per revised MTP rules 2021

Table 4 shows the criteria of registered medical practitioners with degree and experiences. Table 5 shows period of gestation, category and number of Registered Medical Practitioners needed for particular case.

Table 4: Categories of doctors as per revised MTP rules 2021

Categories	Criteria
(a)	In case of a medical practitioner who was registered in a state medical register immediately before the date of commencement of the Acts – he or she had experience in the practice of gynaecology and obstetrics for a period of not less than three years.
(b)	In the case of a medical practitioner who was registered in a state medical register on or after the date of commencement of the Act, either (i) He or she has completed six months of house surgery in gynaecology and obstetrics; or (ii) He or she had experience at any hospital for a period of not less than 1 year in the practice of obstetrics and gynaecology or
(c)	He or she has assisted a registered medical practitioner in at least twenty five cases of MTP of which at least five have been performed independently in a hospital established or maintained, or a training institute approved for this purpose, by the Government
(ca) (incorporated in amendment 2021)	A Registered Medical Practitioner shall have the following experience and training for conducting termination of pregnancy upto nine weeks of gestation period by medical methods of abortion, namely: (i) experience at any hospital for a period of not less than three months in the practice of obstetrics and gynaecology; or (ii) has independently performed ten cases of pregnancy termination by medical methods of abortion under the supervision of a Registered Medical Practitioner in a hospital established or maintained, or a training institute approved for this purpose, by the Government.”
(d)	In case of a medical practitioner who has been registered in a State Medical Register and who holds a postgraduate degree or diploma in gynaecology and obstetrics.

Table 5: Period of gestation, Category and Number of Registered Medical Practitioners

Period of gestation	Category of practitioners	Number of practitioners
Upto nine weeks of gestation period by medical methods of abortion	(a), (b), (c), (ca), (d)	One
Till twelve weeks of gestation, by surgical method	(a), (b), (c), (d)	One
Beyond twelve weeks to twenty weeks	(a), (b), (d)	One
Beyond twenty weeks to twenty four weeks	(a), (b), (d)	Two (Form E)
Beyond twenty eight weeks	(a), (b), (d)	Two practitioners will perform the termination based on the decision of Medical Board

Practitioners of (c) category can perform MTP only upto 12 weeks gestation and practitioners of (ca) category only upto 9 weeks.

Medical board

Medical Board's opinion is needed for the purposes of termination of pregnancy beyond twenty four weeks of gestation for foetal malformation.

Every State Government or Union territory shall, by notification in the Official Gazette, constitute a Board to be called a Medical Board for the purposes of termination of pregnancy beyond twenty four weeks of gestation for foetal malformation.

The Medical Board shall consist of the followings

- (a) a Gynecologist;
- (b) a Pediatrician;
- (c) a Radiologist or Sonologist; and
- (d) such other number of members as may be notified in the Official Gazette by the State Government or Union territory.

Powers of Medical Board

- (i) to allow or deny termination of pregnancy beyond twenty-four weeks of gestation period only after due consideration and ensuring that the procedure would be safe for the woman at that gestation age and whether the foetal malformation has substantial risk of it being incompatible with life or if the child is born it may suffer from such physical or mental abnormalities to be seriously handicapped;
- (ii) co-opt other specialists in the Board and ask for any additional investigations if required, for deciding on the termination of pregnancy;

Functions of the Medical Board

- (i) to examine the woman and her reports, who may approach for medical termination of pregnancy
- (ii) provide the opinion of Medical Board in Form D with regard to the termination of pregnancy or rejection of request for termination within three days of receiving the request for medical termination of pregnancy
- (iii) to ensure that the termination procedure, when advised by the Medical Board, is carried out with all safety precautions along with appropriate counselling within five days of the receipt of the request for medical termination of pregnancy

Time limit in relation to termination of pregnancy beyond twenty-four weeks of gestation period

- Medical Board will give decision to allow or deny in Form D within three days of receiving the request for MTP
- Termination procedure, when advised is to be carried out within five days of the receipt of the request for MTP

Approval of place

There are few changes in the amendment over the rule 5 of MTP rules 2003 so far as logistics are concerned

- In case of second trimester, that is, up to 24 weeks of pregnancy (instead of 20 weeks, but logistics same as below)
 - (a) an operation table and instruments for performing abdominal or gynaecological surgery;
 - (b) anaesthetic equipment, resuscitation equipment and sterilization equipment;
 - (c) drugs and parental fluids for emergency use, notified by central government from time to time (the words “the Central government” has substituted the term “Government of India”).
- In case of termination beyond twenty-four weeks of pregnancy:-
In addition to (a) to (c) additional point (d) is added in the amendment as below
 - (d) facilities for procedure under ultrasound guidance.

That said, there should be facility of ultrasound guidance in termination beyond 24 weeks

Documentations and FORMS

FORM A - Form of application for the approval of a place (edited with 24 weeks)

FORM B - Certificate of approval (no change)

FORM C - Consent of woman (no change)

FORM D - Report of the Medical Board for Pregnancy Termination Beyond 24 weeks- new form after amendment

FROM E - Opinion Form of Registered Medical Practitioners (For gestation age beyond twenty weeks till twenty-four weeks)- New form after amendment

FORM I - Form of certifying opinion or opinions - Every registered medical practitioner who terminates any pregnancy shall, within three hours from the termination of the pregnancy certify such termination in Form I

FORM II - Monthly statement of cases - Every head of the hospital or owner of the approved place shall send to the Chief Medical Officer of the State, in form II a monthly statement of cases where medical termination of pregnancy has been done (change)

FORM III - ADMISSION REGISTER (To be destroyed on the expiry of five years from the date of the last entry in the Register). Admission Register shall be a secret document and the information contained therein as to the name and other particulars of the pregnant woman shall not be disclosed to any person (change)

Steps of procedure in sequential manner

- Approach by the woman for termination
- History and assessment of the genuine indication, Physical examination – general and gynaecological. Investigations – Hb%, urine for albumin and sugar and blood group. Anti-D gamma globulin should be administered to Rh negative woman
- Counselling – regarding procedures and potential complication
- Filling up FORM C-Consent of woman and other FORMs as mentioned
- Certifying opinion or opinions of practitioner/practitioners- FORM I or FROM E
- Routine consent for anaesthesia
- Completion of procedure (MTP)
- Case sheet written for completion of procedure, anaesthetic note, postoperative advice
- Form C and Form B and intimation of termination are placed in envelop, sealed and marked as secret. The serial number of patients as in admission registrar and name of practitioner/ practitioners are written on every envelop
- Envelop is sent to the head of the hospital or owner of the approved place. Till it is submitted it is kept under custody of the practitioner/ practitioners
- Every head of the hospital or owner of the approved place shall arrange to keep the same in safe custody and send only the monthly statement before 5th of every month in form II to the Chief Medical Officer or health ministry in case of cities.

Protection of privacy of a woman (amendment 2021)

- (1) No registered medical practitioner shall reveal the name and other particulars of a woman whose pregnancy has been terminated under this Act except to a person authorised by any law for the time being in force.
- (2) Whoever contravenes the provisions as above shall be punishable with imprisonment which may extend to one year, or with fine, or with both (amendment 2021).

MTP in minor

Consent from appropriate person is to be taken in case of MTP in minor girls with age less than 18 years. In case of minor POCSO Act to be taken into consideration.

Routine sonography before MTP

There is no such directive of routine sonography before MTP in the amendment bill - do or not to do. However, there are several advantages of doing USG before any MTP. Attempts of medical method and first trimester surgical method in undiagnosed ectopic pregnancy / scar ectopic pregnancy may result serious catastrophic event and it is not uncommon in clinical practice.

Key features of the MTP (amendment) bill 2021

- MTP is allowed up to 20 weeks on the opinion of just one medical practitioner.
- To terminate pregnancies between 20 and 24 weeks, the opinion of not less than two practitioners are needed only for special categories of women as specified.
- Terminations beyond 24-week gestations can be done two Registered Medical Practitioners only in case of substantial risk of foetal abnormalities based on the decision of Medical Board duly constructed by the state government or union territory. In that case there is no upper limit of period of gestation
- For terminations beyond 24-week gestations no other indication is considered except substantial foetal abnormalities. Even if it is by rape there is no provision for termination in this amendment, only way is to writ petition to court.
- Registered medical practitioners only with experience and training in gynaecology/obstetrics can perform MTP.
- The medical methods of abortion (MMA) have been allowed up to 9 weeks (from previous 7 weeks). MTP by medical method up to 9 weeks is also allowed by the medical practitioners who have undergone 3 months training in O&G or have done 10 cases MMA under supervision of registered medical practitioners in a hospital or training institute approved for this purpose in addition to other categories of practitioners.
- In the amendment 2021, failure of contraceptive failure used by any woman or her partner as a cause of MTP is not restricted to married woman only, it is any woman irrespective to marital status
- No registered medical practitioner shall reveal the name and other particulars of a woman whose pregnancy has been terminated under this Act except to a person authorised (appropriate authority) by any law for the time being in force and whoever contravenes the provisions as above shall be punishable with imprisonment which may extend to one year, or with fine, or with both(amendment).

Conclusion

Medical Termination of Pregnancy (Amendment) Bill, 2021 has widened the scope of MTP especially in case of grossly malformed fetus and some special situations and provides access to unmarried women. There are few grey areas hopefully which will be cleared in subsequent days. Till the date, no suit for other legal proceedings shall lie against any registered medical practitioner for any damage caused likely to be caused by anything which is in good faith done or intended to be done under the MTP Act,1971 and the procedure is done with strict adherence to the MTP rules and regulations.

Sources:

1. The Medical Termination of Pregnancy Act,1971(Act 34 of 1971) dt.10.8.1971
2. The Medical Termination of Pregnancy Rules,2003[GSR No.485(E)] dt 13-6-2003
3. The Medical Termination of Pregnancy Regulations,2003[GSR No.486(E)] dt 13-6-2003
4. The Medical Termination of Pregnancy (Amendment) Act,2021(No. 8 of 2021) 25th March 2021
5. The Medical Termination of Pregnancy (Amendment) Rules,2021[GSR 730(E)] 12th October, 2021
6. POCSO Act 2012 (no 32 of 2012) 19th June 2012