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## NOTIFICATION

No.B.12019/2/02-SWD, the 29<sup>th</sup> October, 2003. In exercise of the powers conferred by sub-section (1) of section 29 of the Orphanages and other charitable Homes (Supervision and Control) Act, 1960 (Central Act 10 of 1960), the Governor of Mizoram is pleased to notify the Mizoram Orphanages and other Charitable Homes (Supervision and Control) Rules, 2003 which will come into force with effect from the date of their publication in the Mizoram Gazette.

Lalramthanga Tochhawng,  
Secretary to the Govt. of Mizoram,  
Social Welfare Department.

**Short title and commencement**

1. (1) These rules may be called the Mizoram Orphanages and Other Charitable Homes (Supervision and Control) Rules, 2003.
- (2) They shall come into force on the date of their publication in the Official Gazette

**Definitions**

2. (1) In these rules, unless the context otherwise requires;
  - (a) “Act” means the Orphanages and Charitable Homes (Supervision and Control) Act 1960.
  - (b) “Certificate” means the certificate of recognition granted under section 15;
  - (c) “Chief Inspector” means the Officer, who is the Head of Department of Social Welfare /Women & Child Development;
  - (d) “Form” means a form appended to these rules;
  - e) “Home” means an institution, whether called an orphanage, a home for neglected women or children, maintained or intended to be maintained for the reception, care, protection and welfare of women and children;
  - (f) “Recognised Home” means a home in respect of which a certificate has been granted;
  - (g) “section” means section of the Act.
- (2) All words and expressions defined in the Act and used, but not defined in these rules, shall have the same meaning as assigned to them in the Act.

**Board of Control for the Supervision and Control of Homes in the State**

3. The Board shall consists of fifteen members of which
  - (a) three members of the Legislative Assembly to be nominated by the Speaker thereof;
  - (b) five members out of the Managing Committees of the recognised Homes in the State to be elected by such committees;
  - (c) the Director of Social Welfare Department or his representative, not below the rank of the Deputy Director thereof;
  - (d) one Member of Parliament, and
  - (e) five other members out of which three shall be women.

**Elections to the Board of Members from the Managing Committee**

- 4 (1) The Director of Social Welfare Department shall convene a meeting of representatives of the Managing Committee of the Institution for electing the members of the Board under clause (b) of sub-section (2) of section 5 and each Managing Committee of an institution shall be represented at the meeting by one of its members. The quorum for the meeting shall not be less than two-third of the members of the Managing Committee .

(2) The election shall be held in accordance with the system of proportional representation by single transferable vote and the voting shall be by secret ballot, and the names of the persons finally elected will be published by the State Government in the next issue of the Official Gazette. Upon such publications they shall be deemed to have been elected as members under clause (b) of sub-section (2) of section 5.

#### **Election of the Chairman**

5. (1) The Director Social Welfare, shall convene a meeting of the member to elect the Board Chairman from among the members :

Provided that at the time of constitution of the Board, one of the members of the Board shall be nominated by the State Government to be its Chairman.

(2) The election shall be by secret ballot and the candidate who secures the majority of votes shall be declared elected as the chairman of the Board.

(3) In the event of equality of votes between two candidates, the Chief Inspector shall decide forthwith the result by lot and proceed as of the candidate on whom the lot falls has received an additions vote.

#### **Nominated Members**

6 (1) The two professional social workers shall be nominated by the State Government.

(2) The social worker to be nominated as a member of the Board shall be a person who has been actively involved and engaged in planning, implementing and administrative measures relating to women and child welfare activities for at least three years.

#### **Term of Office and Casual vacancies**

7 (1) The term of office of the member of the Board shall be five years from the date of his election or nomination as the case may be :

Provided that the term of office of a Member of Parliament and a Member of the State Legislative Assembly shall come to an end as soon as he/she ceases to be a member of the Legislative Assembly or the Parliament as the case may be.

(2) Casual vacancy in the Board shall be filled by fresh election or nomination and the term of office of a member elected or nominated to fill such vacancy shall be the remainder of the term of the member in whose place he/she is elected or nominated.

(3) Resignation of any member at anytime to be submitted to the State Government in writing which shall be notified in the Official Gazette by the Government shall be declared as vacant.

**Disqualification from membership of the Board**

8. A person shall be disqualified for being elected or nominated and for being a member under clause (b) or clause (d) of sub-section (2) of section 5, if he -

- a) is not ordinarily resident in the State of Mizoram or
- b) holds any office of profit under the State or Central Government;
- c) is of unsound mind and is so declared by a competent court; or
- d) is insolvent.

**Disputes regarding disqualification**

9 (1) If any question as to whether any person is or has become subject to disqualification under sub-rule (1) of rule 6, the Director of Social Welfare Department may either suo moto or on a report made to her/him and after giving an opportunity to the person considered of being heard decide the question.

(2) Any person aggrieved by the order passed under sub-rule (1) may within fifteen days from the date of such order appeal to the State Government and it may after giving an opportunity to the person concerned of being heard pass such order as it deems fit and the decision of the State Government shall be final.

(3) Members of the Board shall be eligible for re-election or re-nomination.

**Function of the Board**

10 (1) It shall be the duty of the Board to supervise and control generally all matters relating to the management of Homes in accordance with the provision of these rules and exercise other powers and perform such functions as may be prescribed under these rules

(2) In the performance of its function under these rules, the Board shall be bound by such directions as the State Government may give to it.

(3) Subject to the directions, if any, given under sub-section (2) of section 8, the Board may, from time to time give general or specific directions to the manager of a recognised Home as it thinks fit for the efficient management of a Home and the Manager shall comply with such directions.

**Power of Inspection**

11. Any member of the Board in writing may be authorised to inspect any Home for the purpose of ascertaining whether the provisions of these rules, regulations, directions or order are being complied with which may require inspection of documents, book, register or record kept by the home and ask for any information relating to the working of the Home:

Provided that the presence of at least two respectable women shall be the requirement where there are females.

**Funds of the Board**

12. The Funds of the Board shall consist of contributions, subscriptions, donations, grants from the State Government or Central Government or any local or other public body.

## **Delegation of Powers**

13. Subject to the control of the State Government, the Board may, by general or special order in writing, delegate, as may be specified, to the Chairman or any member or any officer, its powers and functions under this rule, as it may deem necessary, for the efficient carrying on of its administration.

## **Administration of Funds and Remuneration and Allowance of the Chairman and Members of the Board**

14 (1) The Board shall utilise the funds for meeting the establishment charges of the staff of the Board and for expenses towards of the Board travelling allowance and other remunerations payable to the member of the Board.

(2) Travelling Allowance to the non-official members of the Board for attending the meeting of the Board shall be payable at the rate admissible to the official member.

## **Audit of Accounts**

15. The accounts of the Board shall be audited by the Examiner of Local Accounts or any other officer authorised by the State Government for the purpose.

## **Annual Reports**

16. The Board shall submit to the State Government an Annual Report on its administration for every financial year.

## **Recruitment to the staff of the Board and their service condition**

17 (1) The staff of the Board shall be as sanctioned by the State Government. The Deputy Director, (Headquarters) in the Office of Social Welfare Department, Mizoram, Aizawl shall be ex-officio Secretary of the Board.

(2) Appointment to other sanctioned posts on the Board shall be made by deputation from the Department of Social Welfare, Mizoram.

## **Recognition of Homes**

18 (1) Homes not to be run without certificate. No person shall maintain or conduct any home except under, and in accordance with, the conditions of the certificate of recognition granted under these rules.

(2) Every person desiring to maintain or conduct a Home shall make an application for the grant of certificate of recognition, in Form I.

(3) In granting the certificate of recognition the following factors shall be considered, namely-

- a) Character, antecedents, social status and reputation of the applicant and in case of an Association, of the office bearers of the Managing Committee;
- b) suitability of the applicant or association for running such an institution;
- c) reputation of any institution run by the applicant or association;
- d) character, antecedents, social status and reputation of the

- e) accommodation facilities and sanitary conditions;
- f) names of such institutions functioning in the sub-division with full details regarding their working.

(4) The Certificate of recognition to be granted shall be in Form -II, and application for renewal of certificate of recognition shall be made as laid down in Form III.

### **Forms and Registers**

19. The Management shall maintain the following registers and any other registers specified by the Board from time to time, namely-

- (a) Admission Register,
- (b) Attendance Register,
- (c) Visitor's Register,
- (d) Log Book for records of Inspection,
- (e) Minutes Book,
- (f) Cash Book,
- (g) Complaint Book,
- (h) Office Order Book,
- (i) Staff Register,
- (j) Stock Book of ration,
- (k) Stock Book of Miscellaneous articles,

### **Grant or refusal of Certificate**

20 (1) On receipt of an application the Board, after making such inquiry as it consider necessary, may by order, in writing, either grant a certificate or refuse to grant it.

(2) The ground for refusal of certificate shall be communicated to the applicant in prescribed manner.

(3) A certificate shall not be transferable.

(4) A certificate of recognition to be granted to the Home/ Institution shall be as specified under section 16.

### **Revocation of Certificate**

21 (1) The Board may without prejudice to any penalty to which a person to whom a certificate has been granted may be liable to revoke the certificate:-

(a) if it is satisfied that the Home is not conducted in accordance with the condition laid down in the certificate, or

(b) the management of the home is being carried on in an unsatisfactory manner or is being carried on in a manner highly prejudicial to the moral and physical well-being of the inmates, or

(c) the home has, in the opinion of the Board, otherwise rendered itself unsuitable for the purpose.

(2) In every case of revocation, the grounds therefore shall be communicated to the person in the prescribed manner.

communicated to the person in the prescribed manner.

## **Appeals**

22. Any person aggrieved by an order of the Board refusing to grant a certificate or revoking a certificate may appeal to the State Government through the Board within one month from the date of receipt of intimation from the Board regarding the refusal to grant or revoke the certificate as the case may be.

## **Loss of Certificate**

23. If the Certificate of recognition granted by the Board is lost, destroyed or mutilated, the Manager may apply to the Board for grant of a duplicate certificate in the prescribed form. The Board may on being satisfied with the reasons advanced by the application issue a duplicate certificate.

## **Management of recognised Homes**

24 (1) Every Recognised Home shall have a managing committee in charge of the management and the members of the managing committee shall appoint a member thereof to be the Manager of such home.

(2) The constitution, power and functions of the managing office of committee and the term of the member thereof shall be such as may be provided in the constitution pertaining to such home.

## **Duty of Manager**

25. It shall be the duty of the Manager to comply with all the requirements of the Acts and Rules, regulations, directions and orders thereunder in respect of every woman, or child admitted into the recognised home until the woman is rehabilitated or the child completes the age of eighteen years or until the certificate ceases to have effect.

## **Discharge of Inmates of Home**

26 (1) Subject to the regulations, if any, made by the Board, if the managing committee of the home is satisfied that an inmate of the home has become fit to earn his or her livelihood or is otherwise fit to be discharged from the home, the manager may discharge such inmate.

(2) No female inmate of a home shall be discharged or given in marriage or entrusted to the care of any other person unless such female has made a declaration before the Board that she consents to such discharge, marriage or entrustment as the case may be.

## **Report regarding death of inmates**

27. The Manager shall, immediately after the occurrence of any death among the inmates of the home, send a written report thereof to the Board explaining the cause of death to the best of his knowledge.

## **Penalties**

28. Any person who fails to comply with any of the provision of these Rules or regulations, directions or orders thereunder or any of the conditions of a certificate shall be punishable as under section 24.

## **Sanction of Prosecution**

29. No prosecution under these rules shall be instituted except with

**Persons performing function  
under these rules to be public  
servant**

30. The members of the Board and every person empowered by the Board to exercise any of its power under these rules shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

**Protection of action  
in good faith**

31. No suit, prosecution or other legal proceedings shall lie against any person who performs any function under these rules for anything done or intended to be done in good faith under these rules, regulations, directions or orders thereunder.



**FORM - I**  
**(See sub-rule (2) of rule 18)**

**FORM OF APPLICATION FOR CERTIFICATE OF RECOGNITION**

1. Full name of the applicant or Association :
2. Religion :
3. Residence (Town or Villages) (in case of association) Particulars reg. items 2&3 mentioned in respect of each member. :
4. Name of Institution. :
5. Aims and Objectives :
6. Details about the financial condition of the institution, funds, property and source of income :
7. Arrangements made or proposed to be made for boarding and lodging and also details of the building whether owned by the institution or rented. :
8. Arrangement in respect of general health of inmates and facilities for their medical treatment and arrangements proposed to be made for educational, vocational and moral training. :
9. Full address of the institution :
10. Has any such application been made previously if so, its results together with its date month and year. :
11. If the institution exists at present, the date of its commencement. :
12. No. of particulars of the inmates at the time of starting :
13. Maximum member of accomodation :
14. Any other particulars :

I/We ..... hereby solemnly affirm that the above and annexed particulars are true according to my/our best of knowledge and belief.

Sign/Signature

**FORM - II**  
*(See sub-rule (4) of rule 18)*

**FORM OF RECOGNITION OF AGENCY**

1. No. of certificate of recognition :
2. Name and full address of the institution :
3. Name and full address of the Manager :
4. The nature of the home, whether for women generally or for widows or for children generally or for orphans or for one or more of these classes. :
5. The maximum number of inmates that can be admitted :
6. The minimum standard regarding boarding, lodging, clothing, sanitation, health and hygiene etc. :
7. The standard of education or training to be provided in the Home :
8. Other conditions if any prescribed by the Board :
  - i) The Certificate is granted subject to all the provisions of the Orphanage and Charitable Home (Supervision and control) Act and the rules there under.
  - ii) The certificate shall not be transferable.
  - iii) The certificate shall remain in force for 3 years from the date of issue.
  - iv) The certificate is granted on condition that the person incharge of a Home shall be a women may be deleted and it is not necessary to have these conditions under the rules.

Director  
Social Welfare Department.

**FORM - III**  
*(See sub-rule (5) of rule 18)*

**FORM OF APPLICATION FOR RENEWAL OF CERTIFICATE OF RECOGNITION**

1. Full name of the applicant or Association
2. Religion
3. Full Address
4. Name of the Institution
5. Certificate No.
6. Any other particulars

(SIGNATURE)