

BOMBAY CORNEAL GRAFTING ACT, 1957

33 of 1957

[4th September, 1957]

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An Act to make provision with respect to the use of eyes of deceased persons for therapeutic purposes. WHEREAS it is expedient to make provision with respect to the use of eyes of deceased persons for therapeutic purposes: It is hereby enacted in the Eighth Year of the Republic of India as follows:-

1. Short title, extent and commencement :-

- (1) This Act may be called the Bombay Corneal Grafting Act, 1957 .
- (2) It extends to the whole of the ¹ [State of Gujarat].
- (3) It shall come into force on such date and in such area or areas as the State Government may, by notification in the Official Gazette, specify in this behalf.

1. Substituted by A.O. 1960 for -State of Bombay".

2. Definitions :-

In this Act, unless the context otherwise requires-

(a) "approved institution" means a hospital or a medical or teaching institution for therapeutic purpose approved by the State Government for the purposes of this Act:

(b) "near relative" means any of the following relatives of the deceased namely, a wife, husband, parent, son, daughter,

Explanation-The expressions "Lineal and Collateral consanguinity" shall have the meanings assigned to them in the Indian Succession Act, 1925 (XXXIX of 1925).

¹ [(bb) "prescribed" means prescribed by rules made under this Act:)

(c) "registered medical practitioner" means a practitioner practising any system of medicine and recognised as a registered medical practitioner under any law for the time being in force in India.

1. Inserted by Gujarat 2 of 1962.

2A. Power to prescribe procedure and conditions for approval of institutions :-

¹ -The State Government may prescribe the procedure according to which and the conditions subject to which a hospital or a medical or teaching institution for therapeutic purposes shall be approved under clause (a) of Section 2 as an approved institution for the purposes of this Act. It may also prescribe the circumstances in which an approval accorded may be withdrawn.]

1. Inserted by Gujarat 2 of 1962.

3. Removal of eyes of deceased person :-

(1) If any person either in writing at any time, or orally in the presence of two or more witnesses during his last illness, has expressed request that his eyes be used for therapeutic purposes after his death, the person lawfully in possession of his body after his death may, unless he has reason to believe that the request was subsequently withdrawn, authorize the removal of the eyes from the body for those purposes.

(2) Without prejudice to the provisions of sub-section (1). the person lawfully in possession of the body of a deceased person may authorise the removal of the eyes from the body for the purposes

aforesaid unless that person has reason to believe-

(a) that the deceased had expressed an objection to his eyes being so dealt with after his death, and had not withdrawn such objection: or

(b) that a near relative of the deceased objects to the deceased's eyes being so dealt with.

(3) An authority given under the provisions of this section in respect of any deceased person shall be sufficient warrant for the removal of the eyes from the body and their use for the purpose

4. Authority when not to be given :-

The authority for the removal of the eyes shall not be given under Section 3 if the person empowered to give such authority has reason to believe that an inquest may be required to be held on the body in accordance with provisions of any law for the time being in force in that behalf.

5. No authority for removal of eyes when body is entrusted to person by another only for cremation etc. :-

No authority for the removal of eyes shall be given under Section 3 in respect of the body of deceased person by a person entrusted by another person with the body of a deceased person for the purpose only of its interment or cremation.

6. Authority to remove eyes, when body is lying in approved institution :-

in the case of a body lying in an approved institution any authority for removal of eyes under this Act may be given on behalf of the person having the control or management of the approved institution by any officer or person designated in that behalf by the first mentioned person.

6A. Power to make rules :-

1 .

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may be made to provide for all matters expressly allowed by this Act to be prescribed by rules.

(3) The power to make rules conferred by this section is subject to

the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.

(5) Any modifications so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.]

1. Inserted by Gujarat 2 of 1962.

7. Saving :-

(1) Nothing in the foregoing provisions of this Act shall be construed as rendering unlawful any dealing with the body or any part thereof, of a deceased person which would have been lawful if this Act had not been passed.

(2) Any authority for the removal of eyes given in accordance with the provisions of this Act shall not be deemed to be contravention of the provisions of section 297 of the Indian Penal Code. (XLV of 1860).

8. Amendment of Bombay XI of 1949 :-

In the Bombay Anatomy Act, 1949 (Bom. XI of 1949)-

(a) in the long title and preamble after the words "teaching institutions" the words "for therapeutic purposes or" shall be inserted:

(b) in Section 2 . In clause (1), for the words "to carry on anatomical examination and dissection" the words "for all or any of the purposes of this Act" shall be substituted:

(c) in section 5, in sub-section (1), after the words "approved institutions" the words "for any therapeutic purpose or" shall be inserted.