

Himachal Pradesh Corneal Grafting Act, 1964

11 of 1964

[01 January 1965]

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An Act to make provision with respect to the use of eyes of deceased persons for therapeutic purposes. Amended, repealed or otherwise affected by,- (i) H.P. Act No. 25 of 1969, published in R.H.P. Extra., dated the 13th October, 1969 at p. 883-887. (ii) A.O. 1973, published in R.H.P. Extra., dated the 20th January, 1973 at page 91-112. WHEREAS it is expedient to make provision with respect to the use of eyes of deceased persons for therapeutic purposes; it is hereby enacted by the Legislative Assembly of Himachal Pradesh in the Fifteenth Year of the Republic of India as follows:- 1 For Statement of Objects and Reasons, see R.H.P. Extra., dated the 23rd September, 1964 at p. 329 & for its authoritative Hindi text see R.H.P. Extra., dated 24th Oct, 1987 p. 2125. 2 Extended to the areas added to H.P. under section 5 of the Punjab Re-organisation Act, 1966 by the H.P. Act No. 25 of 1969.

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Himachal Pradesh Corneal Grafting Act, 1964.

(2) It extends¹ to 2[the areas comprised in Himachal Pradesh immediately before 1st November, 1966.]

(3) It shall come into force on such date² and in such area or areas as the State Government may, by notification in the Official Gazette, specify in this behalf.

1 Substituted. for "the whole of Himachal Pradesh" by A. O. 1973.

2 The Act enforced w.e.f. the 15th April, 1965 vide Not. No. 2-6/65-Med. II, dated the 17th May, 1965. published in R.H.P. dated 12-6-1965 P. 229.

2. Definitions :-

In this Act, unless the context otherwise requires.-

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

(b) 1[* * * * *]

(c) "Official Gazette" means the Rajpatra, Himachal Pradesh;

(d) "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;

(e) "near relative" means any of the following relatives of the deceased, namely, a wife, husband, parent, son, daughter, brother and sister and includes any other person who is related to the deceased (a) by lineal or collateral consanguinity within three degrees in lineal relationship and six degrees in collateral relationship, or (b) by marriage either with the deceased or with any relative specifically mentioned in this clause or with any other relative within aforesaid degrees.

Explanation.-The expressions "Lineal and collateral consanguinity" shall have the meanings assigned to them in the Indian Succession Act, 1925 (39 of 1925).

1 The definition of "State Government" omitted by A. O. 1973.

3. Removal Of Eyes Of Deceased Person :-

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 a 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, authorise 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 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 purposes aforesaid; but no such removal shall be affected except by a registered medical practitioner working in an approved institution who has satisfied himself by a personal examination of the body that life is extinct.

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 the 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 a 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.

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 (45 of 1860).