

Goa, Daman And Diu (Authority For Use Of Eyes For Therapeutic Purposes) Act, 1981

14 of 1981

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Goa, Daman And Diu (Authority For Use Of Eyes For Therapeutic Purposes) Act, 1981

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AN ACT to provide for the use of eyes of deceased persons for therapeutic purposes and for matters connected therewith. Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-first Year of the Republic of India as follows:-

1. Short Title And Commencement :-

- (1) This Act may be called the Goa, Daman and Diu (Authority for the use of Eyes for Therapeutic Purposes) Act, 1980.
- (2) It extends to the whole of the Union territory of Goa, Daman and Diu.
- (3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint.

2. Definitions :-

In this Act, unless the context otherwise requires:-

- (a) "Administrator" means the Administrator of the Union territory of Goa, Daman and Diu appointed by the President under article

239 of the Constitution;

(b) "approved institution" means a hospital or teaching institution approved by the Administrator for the purposes of this Act;

(c) "near relative", in relation to a deceased person, means his wife, husband, parent, son, daughter, brother and sister and includes any other person who is related to the deceased person.-

(i) by lineal consanguinity within three degrees or by collateral consanguinity within six degrees; or

(ii) by marriage with any of the relatives then in the Indian Succession Act, 1925, and degrees of relationship shall be computed in the manner laid down in that Act or any other law for the time being in force;

(d) "prescribed" means prescribed by rules made under this Act.

3. Authority For The Removal Of Eyes Of Deceased Persons

:-

(1) If any person had, either in writing or orally, in the presence of two or more witnesses (at least one of whom is a near relative of such person) unequivocally authorised, at any time before his death, the use of his eyes, after his death, for therapeutic purposes (such person being hereinafter referred to in this section as the "donor"), the person lawfully in possession of the dead body of the donor shall, unless he has any reason to believe that the donor had subsequently revoked the authorisation aforesaid, grant, to the medical practitioner referred to in sub-section (2), all reasonable facilities for the removal, for therapeutic purposes, of the eyes from the dead body of the donor.

(2) The authority given under sub-section (1) shall be sufficient warrant for the removal, for therapeutic purposes, of the eyes from the body of the deceased person; but no such removal shall be made by any person other than a registered medical practitioner possessing a post-graduate qualification in Ophthalmology or a certificate showing that he had received training in enucleation procedure in the Ophthalmic Department of an approved institution, who had satisfied himself, before such removal, by a personal examination of the body from which eyes are to be removed, that life is extinct in such body.

Explanation:- For the purpose of this section, registered medical practitioner" means a medical practitioner who possesses any recognised medical qualification referred to in clause (h) of section 2 of the Indian Medical Council Act, 1956, and whose name has

been entered in a State Medical Register.

4. Removal Of Eyes Not To Be Authorised In Certain Cases

:-

(1) No facilities shall be granted, or authority shall be given for the removal of eyes under section 3, if the person required to grant such facilities, or empowered to give such authority, has reason to believe that an inquest may be required to be held in relation to the body of the deceased person in pursuance of the provisions of any law for the time being in force.

(2) No authority for the removal of eyes from the body of a deceased person shall be given by a person to whom such body has been entrusted solely for the purpose of interment, cremation or other disposal.

5. Authority For Removal Of Eyes In The Case Of Unclaimed Bodies In Certain Institutions :-

(1) In the case of a dead body lying in a hospital, prison, nursing home or other like institution and not claimed by any of the near relatives of the deceased person, authority for the removal of the eyes from the dead body which so remains unclaimed may be given, subject to the provisions of sub-section (2), in the prescribed form, by the person in-charge, for the time being, of the management or control of the hospital, prison, nursing home or other like institutions or by an employee of such hospital, prison, nursing home or other like institution, authorised or designated in this behalf by the person in the charge of management or control thereof.

(2) The authority referred to in sub-section (1) shall not be given except after the expiry of-

(i) half an hour from the time of the death of the concerned person, in cases where no facility for cold storage of the dead body is available in the hospital, prison, nursing home or other like institutions; or

(ii) two hours from the time of death of the concerned person, in cases where facility for cold storage of the dead body is available in the hospital, prison, nursing home or other like institution.

(3) No authority shall be given under sub-section (1) if the person empowered to give such authority has reason to believe that any near relative of the deceased is likely to claim the dead body even though such near relative has not come forward to claim the body

of the deceased within the time specified in this behalf.

6. Authority For Removal Of Eyes From Bodies Sent For The Post Mortem Examination For Medico-Legal Purposes :-

Where the death of a person is caused by accident or any other unnatural cause, and his dead body has been sent for post mortem examination for medico-legal purposes, the person competent under this Act to give authority for the removal of eyes from such dead may, if he has reason to believe that the eyes will not be required for any medico-legal purpose, authorise the removal for therapeutic purposes, of the eyes of such deceased person; provided that he is satisfied that the deceased person had not expressed, before his death, any objection to his eyes being used for therapeutic purposes after his death or, where he had granted an authority for the use of his eyes for therapeutic purposes after his death, such authority had not been revoked by him before his death.

7. Preservation Of Eyes Removed From Dead Bodies :-

After the removal of the eyes from the body of the deceased person, the medical practitioner shall take such steps for the preservation of the eyes so removed as may be prescribed.

8. Savings :-

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

(2) Neither the grant of facility or authority for the removal of eyes from the body of a deceased person in accordance with the provisions of this Act nor the removal of eyes from the body of a deceased person in pursuance of such authority shall be deemed to be an offence punishable under section 297 of the Indian Penal Code.

9. Protection Of Action Taken In Good Faith :-

No suit, prosecution or other legal proceedings shall lie against any approved institution or any person for anything which is in good faith done or intended to be done under this Act.

10. Power To Make Rules :-

(1) The Administrator may, by notification in the Official Gazette,

make rules for carrying out the provisions of this Act.

(2) In particular, and without any prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) form in which removal of eyes of unclaimed bodies may be authorised, as required by section 5;

(b) preservation of removed eyes, as required by section 7;

(c) any other matter which is required to be, or may be, prescribed.