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GOVERNMENT OF WEST BENGAL

LEGISLATIVE DEPARTMENT

West Bengal Act XIX of 1965

**THE WEST BENGAL CORNEAL GRAFTING ACT,
1965.**

[Passed by the West Bengal Legislature.]

[Assent of the President was first published in the *Calcutta Gazette, Extraordinary*, of the 11th August, 1965.]

[11th August, 1965.]

An Act to make provision with respect to the removal and use for therapeutic purposes of eyes of deceased persons.

WHEREAS it is expedient to make provision with respect to the removal and use for therapeutic purposes of eyes of deceased persons;

It is hereby enacted in the Sixteenth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Corneal Grafting Act, 1965.

Short title
extent and
commence
ment.

(2) It extends to the whole of West Bengal.

(3) This section shall come into force at once and the remaining provisions of this Act shall come into force in such area and on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for this purpose in respect of different areas.

2. In this Act, unless there is anything repugnant in the subject or context,

Definitions.

(1) "approved institution" means any hospital or other institution approved by the State Government by notification in the *Official Gazette* for the purposes of this Act;

(2) "authorised medical practitioner" means a medical practitioner possessing any of the medical qualifications included in the Schedules to the Indian Medical Council Act, 1956, registered under any law for the time being in force in any State regulating the registration of practitioners of medicine and attached to, or employed in, an approved institution;

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(Section 3.)

- (3) "near relative" in relation to a deceased person means any of the following relatives of the deceased, that is to say—

wife, husband, parent, son, daughter, brother and sister

and includes any other person who is related to the deceased—

- (i) by lineal consanguinity within three degrees, or by collateral consanguinity within four degrees, or

- (ii) by marriage with any of the aforesaid relatives.

Explanation.—In this clause the expressions "lineal consanguinity" and "collateral consanguinity" have the same meanings, respectively, as in the Indian Succession Act, 1925;

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

Authority
for remo-
val of eyes
of deceased
persons.

3. Save as hereinafter otherwise provided in this Act,—

- (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 a request that his eyes be used for therapeutic purposes then, after his death, the person lawfully in possession of the body of the deceased person may, unless he has reason to believe that such request was subsequently withdrawn, authorise the removal of the eyes from the body of the deceased for use for those purposes;

- (2) without prejudice to the provisions of clause (1), the person lawfully in possession of the body of a deceased person may authorise the removal of the eyes from the body of the deceased for use for the purposes aforesaid unless such 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.

Explanation.—In this section the expression "person lawfully in possession of the body" of a deceased person does not include a person who has been entrusted with the body of a deceased person solely for the purpose of its interment, burial, cremation or disposal in any other way but includes, in the case of the body of a deceased person lying in any hospital, prison, nursing home or other institution and not claimed by

(Sections 4—8.)

any near relative of the deceased person within such time as may be prescribed, the person having the control and management of such hospital, prison, nursing home or other institution, as the case may be.

4. Authority for the removal of the eyes from the body of any deceased person shall not be given under section 3 if the person empowered thereunder to give such authority knows or 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.

Authority not to be given in certain circumstances.

5. (1) Subject to the provisions of sub-section (2) an authority given under the provisions of this Act in respect of any deceased person shall be sufficient warrant for the removal of the eyes from the body of such deceased person and for the use of the eyes so removed for the purposes aforesaid.

Removal of eyes.

(2) No removal of eyes from the body of any deceased person under an authority given under this Act shall be effected except by an authorised medical practitioner who must have satisfied himself by a personal examination of the body that life is extinct.

(3) Any eye removed from the body of a deceased person under an authority given under this Act shall, after such removal, be made over by the authorised medical practitioner removing the eye to the nearest approved institution and shall be kept therein for use for therapeutic purposes.

6. If any person contravenes, or abets the contravention of, any of the provisions of this Act, he shall, on conviction before a Magistrate, be punishable with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both.

Penalty.

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

Savings.

Act XLV
of 1860.

(2) Notwithstanding anything contained in section 297 of the Indian Penal Code, an authority for the removal of the eyes from the body of a deceased person given in accordance with the provisions of this Act or the removal of the eyes from the body of the deceased person in pursuance of such authority shall not be deemed to be an offence punishable under the said section.

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

Power to make rules.

(2) In particular and without prejudice to the generality of the provisions of this Act such rules may be made in respect of any matter which is required to be or may be prescribed.