

ACT 17 OF 1963

THE KERALA CORNEAL GRAFTING ACT, 1963

CONTENTS

Preamble.

Sections

1. Short title, extent and commencement.
2. Definitions.
3. Removal of the eyes of deceased persons.
4. Power to make rules.

Schedule.

ACT 17 OF 1963

THE KERALA CORNEAL GRAFTING ACT, 1963 *

An Act to make provision with respect to the use of the eyes of deceased persons for therapeutic purposes in the State of Kerala.

Preamble.—WHEREAS it is expedient to make provision with respect to the use of the eyes of deceased persons for therapeutic purposes in the State of Kerala;

BE it enacted in the Fourteenth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*— (1) This Act may be called the Kerala Corneal Grafting Act, 1963.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) "approved institution" means an institution specified in the Schedule and includes any other institution declared by the Government, by notification in the Gazette, to be an approved institution 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, brother or sister and includes any other person who is related to the deceased (i) by lineal consanguinity within three degrees or by collateral consanguinity within six degrees or (ii) by marriage with any of the relatives aforesaid.

Explanation.—The expressions "lineal consanguinity" and "collateral consanguinity" shall have the meanings assigned to them in the Indian Succession Act, 1925 (Central Act 39 of 1925), and degrees of relationship shall be computed in the manner laid down in that Act.

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

3. *Removal of the eyes of deceased persons.*—(1) If any person, either in writing at any time or orally in the presence of two or more persons during his last illness, has expressed an unequivocal request that his eye or eyes be used for therapeutic purposes after his death, the party lawfully in possession of his body after his death, may, unless, the said party has reason to believe that the request was subsequently withdrawn, authorise the removal of the eye or eyes from the body for use for those purposes.

* Received the assent of the Governor on the 15th day of March, 1963 and published in the Kerala Gazette Extraordinary No. 45 dated 16th March, 1963.

(2) Without prejudice to sub-section (1), the party law-fully in possession of the body of a deceased person may authorise the removal of the eye or eyes from the body for the purposes aforesaid unless that party has reason to believe:—

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

(b) that the surviving spouse or any near relative of the deceased objects to the eye or eyes of the deceased being so dealt with.

(3) An authority given under this Act in respect of any deceased person shall be sufficient warrant for the removal of the eye or eyes from the body and its or their use for the purposes aforesaid; but no such removal shall be effected except by a medical officer possessing the prescribed qualifications and attached to, or employed in, an approved institution, who must have satisfied himself by a personal examination of the body that life is extinct and the eye or eyes shall after such removal be handed over by such medical officer to the nearest approved institution.

(4) (a) No authority for the removal of the eye or eyes under this Act shall be given if the party empowered to give such authority has reason to believe that an inquest may be required to be held on the body.

(b) Any person who, knowing or having reason to believe that an inquest may be required to be held over a dead body, gives or abets the giving of any authority under this Act, shall on conviction before a Magistrate, be liable to fine which may extend to two hundred rupees.

(5) No authority shall be given under this Act in respect of the body of a deceased person by any person who has been entrusted with the body solely for the purpose of its interment, burial, cremation or disposal otherwise.

(6) In the case of a body lying in a hospital, prison, nursing home or institution, and not claimed by any of the near relatives of the deceased within such time as may be prescribed, an authority under this Act may be given by the person having the control and management of the hospital, prison, nursing home or institution or by any person designated by the first mentioned person in that behalf.

¹[(6A) Where the body of a person has been sent for post-mortem examination—

(a) for medico-legal purposes by reason of the death of such person having been caused by accident or any other unnatural cause; or

(b) for pathological purposes,

the person competent under this Act to give authority for the removal of the eyes from such dead body may, if he has reason to believe that the eyes will not be required for the

1. Inserted by Act 21 of 1988 (w.e.f. 17.08.1988)

purpose for which such body has been sent for post-mortem examination, 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) Nothing in this Act shall be construed as rendering unlawful any dealing with the body of a deceased person, or any part thereof, which would have been lawful if this Act had not been passed.

4. *Power to make rules.*— (1) The Government may, by notification in the gazette, make such rules as may be necessary for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

SCHEDULE

[See clause (a) of section 2]

1. Ophthalmic Hospital, Trivandrum.
2. District Hospital, Ernakulam.
3. Medical College Hospital, Calicut.
4. Medical College Hospital, Kottayam
5. Medical College Hospital, Alleppey
6. Medical College Hospital, Trichur
7. District Hospital, Trivandrum
8. District Hospital, Quilon
9. District Hospital, Pathanamthitta
10. District Hospital, Kottayam
11. District Hospital, Alleppey
12. District Hospital, Idukki
13. District Hospital, Trichur
14. District Hospital, Palghat

15. District Hospital, Malappuram
16. District Hospital, Wynadu
17. District Hospital, Kozhikode
18. District Hospital, Cannanore
19. District Hospital, Kasargod

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