

THE EYES (AUTHORITY FOR USE FOR THERAPEUTIC
PURPOSES) ACT, 1982

No. 29 OF 1982

[7th August, 1982.]

An Act to provide for the use of eyes of deceased persons for therapeutic purposes and for matters connected therewith.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Eyes (Authority for Use for Therapeutic Purposes) Act, 1982.

(2) It extends to the whole of the Union territory of Delhi.

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

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

(a) “Administrator” means the Administrator of the Union territory of Delhi appointed by the President under article 239 of the Constitution;

(b) “near relative”, in relation to a deceased person, means any person related to him as spouse, parent, son, daughter, brother or sister and includes any other person who is related to him—

(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 respectively assigned to them in the Indian Succession Act, 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;

Short title, extent and commencement.

Definitions.

(d) "registered medical practitioner (ophthalmic)" means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956, and possesses a post-graduate qualification in Ophthalmology or a certificate showing that he had received training in enucleation procedure in the Ophthalmic Department of a hospital or teaching institution for therapeutic purposes approved by the Administrator in this behalf and who is enrolled on a State Medical Register as defined in clause (k) of the said section.

Authority for removal of eyes of deceased persons.

3. (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 hereafter in this sub-section referred to 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 a registered medical practitioner (ophthalmic) all reasonable facilities for the removal, for therapeutic purposes, of the eyes from the dead body of the donor.

(2) Where no such authorisation as is referred to in sub-section (1) was made by any person before his death but no objection was also expressed by such person to his eyes being used after his death for therapeutic purposes, the person lawfully in possession of the body of the deceased person may, unless he has reason to believe that any near relative of the deceased person has objection to the deceased person's eyes being used for therapeutic purposes, authorise the removal of the eyes of the deceased person for their use for therapeutic purposes.

(3) The authority given under sub-section (1) or, as the case may be, under sub-section (2), 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 (ophthalmic) 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.

Removal of eyes not to be authorised in certain cases.

4. (1) No facilities shall be granted under sub-section (1) of section 3 and no authority shall be given under sub-section (2) of that section for the removal of eyes from the body of a deceased person 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 such body 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.

Authority for removal of eyes in case of unclaimed bodies in hospital or prison.

5. (1) In the case of a dead body lying in a hospital or prison and not claimed by any of the near relatives of the deceased person, the 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 or prison or by an employee of

such hospital or prison, authorised in this behalf by the person in charge of the 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 or prison; or

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

(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 clause (i) or, as the case may be, clause (ii) of sub-section (2).

Explanation.—For the purposes of this section, "hospital" includes a nursing home, medical or teaching institution for therapeutic purposes or other like institution.

6. Where the body of a person has been sent for postmortem 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 purpose for which such body has been sent for postmortem 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. After the removal of the eyes from the body of the deceased person, the registered medical practitioner (ophthalmic) shall take such steps for the preservation of the eyes so removed as may be prescribed.

8. (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 any 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.

Authority for removal of eyes from bodies sent for post-mortem examination for medico-legal or pathological purposes.

Preservation of eyes removed from dead bodies.

Savings.

Protection of action taken in good faith.

Cessation of operation of Bombay Act 23 of 1957.

Power to make rules.

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

10. (1) On the commencement of this Act, the Bombay Corneal Grafting Act, 1957, as in force in the Union territory of Delhi, shall cease to be in force in the Union territory of Delhi:

Provided that such cesser shall not affect the previous operation of the enactment aforesaid and anything done or any action taken (including any authority granted, any direction or notice issued) under any provision of such enactment shall, in so far as it is not inconsistent with the provisions of this Act, continue to be in force unless and until superseded by anything done or any action taken under this Act.

(2) Any reference, in the enactment so ceasing to be in force, to any officer, authority or person entrusted with any functions thereunder, shall be construed, where necessary, as a reference to the corresponding officer, authority or person functioning under this Act.

11. (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 prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

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

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

(c) the publicity which may be given to the provisions and objects of this Act;

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

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree 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.