

The Gujarat Corneal Grafting Proceedings Act, 1957

GUJARAT

India

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Act 33 of 1957

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The Bombay Corneal Grafting Proceedings Act, 1957 Bombay Act No 33 of 1957 [Dated 4th September, 1957] For Statement of Objects and Reason, see Bombay Government Gazette, 1957, Part V, page 142. An Act to make provision with respect to the use of eyes of deceased persons for therapeutic purposes. Whereas it is expedient to make provision with respect to the use of eyes of deceased persons for therapeutic purposes; It is hereby enacted in the Eighth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Bombay Corneal Grafting Act, 1957. (2) It extends to the whole of the [State of Gujarat] [Substituted by A.O., 1960.], (3) It shall come into force on such date and in such area or areas as the State Government may, by notification in the Official Gazette, specify in this behalf.

2. Definitions.

- In this Act, unless the context otherwise requires-(a) "approved institution" means a hospital or a medical or teaching institution for therapeutic purposes approved by the State Government 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 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 (XXXIX of 1925). (bb) ["prescribed" means prescribed by rules made under this Act;] [Sub-clause (bb) inserted by Gujarat No. 2, dated 7th February 1962.] (c) "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.

2A. [Power to prescribe procedure and conditions for approval of institutions. [Section 2A inserted by Gujarat No. 2, dated 7th February 1962.]

- The State Government may prescribe the procedure according to which and the conditions subject to which a hospital or a medical or teaching institution for therapeutic purposes shall be approved under clause (a) of section 2 as an approved institution for the purposes of this Act. It may also prescribe the circumstances in which an approval accorded may be withdrawal.]

3. Removal of eyes of deceased person.

(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 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 has 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. (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 effected 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 the 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.

6A. [Power to make rules. [Section 6A inserted by Gujarat No. 2, dated 7th February 1962.]

(1)The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may be made to provide for all matters expressly allowed by this Act to be prescribed by rules.(3)The power to make rules conferred by this section is subject to the conditions of the rules being made after previous publication.(4)All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.(5)Any modifications so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.]

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 (XLV of 1860).

8. Amendment of Bombay XI of 1949.

- In the Bombay Anatomy Act, 1949 (Bombay XI of 1949)-(a)in the long title and preamble, after the words "teaching institutions" the words "for therapeutic purposes or" shall be inserted;(b)in Section 2, in clause (1), for the words "to carry on anatomical examination and dissection" the words "for all or any of the purposes of this Act; shall be substituted;(c)in Section 5, in sub-section (1) after the words "approved institution" words "for any therapeutic purpose or" shall be inserted.