

The M.P. Kaneenika Upropan (Corneal Grafting) Adhiniyam, 1982

MADHYA PRADESH

India

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Act 21 of 1982

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The M.P. Kaneenika Upropan (Corneal Grafting) Adhiniyam, 1982 M.P. Act No. 21 of 1982 Received the assent of the Governor on 7-7-1982; assent first published in the "Madhya Pradesh Gazette (Extraordinary)", dated 17-7-1982. An Act to provide for the use of eyes of deceased persons for therapeutic purposes, and for matters connected therewith or incidental thereto. Be it enacted by the Madhya Pradesh Legislature in the Thirty-third Year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the Madhya Pradesh Kaneenika Upropan (Comeal Grafting) Adhiniyam, 1982. (2) It extends to the whole of Madhya Pradesh. (3) It shall come into force on such date as the State Government may, by notification, appoint.

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" in relation to a deceased person means any of the following relatives of the deceased, namely wife, husband, parent, son, daughter, brother and sister and includes any other person who is related to the deceased - (i) by lineal or collateral consanguinity within six degrees in lineal or collateral relationship; or (ii) by marriage either with the deceased or with any relative specifically mentioned in this clause or with any other relative within the 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).

3. Authority for 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, at any time before his death expressed an unequivocal 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of his body after his death may, unless such person has reason to believe that the request aforesaid was subsequently withdrawn in writing or orally in the presence of two witnesses, before his death by the person making such request, authorise the removal of the eyes from the dead body of the person making such request for therapeutic 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 dead body for therapeutic purposes, unless he has reason to believe :-(a) that the deceased person has expressed before his death, an objection to his eyes being so dealt with after his death and had not withdrawn such objections; or (b) that a near relative of the deceased person has objections to the eyes of the deceased person being so dealt with except where the person before his death had expressed such intention as is specified in sub-section (1). (3) An authority given under this section in respect of any deceased person shall be sufficient warrant for the removal of the eyes from the body of the deceased person and its use for therapeutic purposes.

4. Removal of eyes not be authorised in certain cases.

(1) No authority for the removal of eyes shall be given under Section 3 if the person competent to give such authority has reason to believe that an inquest may be required to be held on 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, burial or disposal otherwise.

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, the authority for the removal of the eyes from the dead body which so remains unclaimed may be given in the form prescribed by rules made under this Act, by the person having for the time being, the control or management of the hospital, prison, nursing home or institution. (2) The authority referred to in sub-section (1) may be given-(i) after the expiry of half an hour from the time of death of the concerned person where no facility for cold storage of the dead body is available in the hospital, prison, nursing home or other like institution; (ii) after the expiry of two hours from the time of death of the concerned person, in cases where the facility for cold storage of the dead body is available in the hospital, prison, nursing home or other like institution.

6. Authority for removal of eyes from bodies sent for the post mortem for medicolegal purposes.

- Where a person has died by accident or unnatural death and his dead body has been sent for post mortem examination for medicolegal purposes, authority for removal of eyes from such dead body may be given by the person competent to give such authority under this Act, if he has reason to believe that the eyes will not be required for medicolegal purposes and the deceased had not expressed any objection to his eyes being used for therapeutic purposes after his death and had not withdrawn his consent, if such consent was given during his life time.

7. Registered Medical Practitioner alone may remove eyes.

(1) No person other than a registered medical practitioner attached to, or employed in any approved institution, shall remove the eyes from the body of a deceased person. (2) The medical practitioner authorised to remove the eyes from the body of a deceased person under sub-section (1), shall, before such removal, satisfy himself by personal examination of the body that life is extinct. (3) After removal of the eyes from the body of a deceased person the medical practitioner shall keep it in such receptacle for preservation, as may be prescribed, before its delivery to the Eye Bank or an institution approved by the State Government. Explanation. - In this section "registered medical practitioner" means a medical practitioner who possesses a postgraduate qualification in Ophthalmology or who possesses a certificate showing that he has received training in enucleation procedure in the Ophthalmology department of an institution approved or notified by the State Government.

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 body of a deceased person if such dealing would have been lawful if this Act had not been passed. (2) Any authority for the removal of eyes from the body of a deceased person given in accordance with the provisions of this Act and any removal of eyes from the body of a deceased person in pursuance of such authority shall not be deemed to be an offence punishable under Section 297 of the Indian Penal Code, 1860 (No. 45 of 1960).

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 State Government may make rules for carrying out the provisions of this Act. (2) All rules made under this Act shall be laid on the table of the Legislative Assembly.

11. Repeal.

- Madhya Pradesh Comeal Grafting Act, 1964 (No. 6 of 1964) is hereby repealed.