



The Haryana Corneal Grafting Act, 1974

Act 25 of 1974

Keyword(s):

Near Relative, Registered Medical Practitioner, Doctor, Eye

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THE HARYANA CORNEAL GRAFTING ACT, 1974

(HARYANA ACT NO. 25 OF 1974)

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THE HARYANA CORNEAL GRAFTING ACT, 1974

(HARYANA ACT NO. 25 OF 1974)

(Received the assent of the Governor of Haryana on the 2nd August, 1974, and first published for general information in the Haryana Government Gazette (Extraordinary), Legislative Supplement Part I of 5th August, 1974).

1	2	3	4
Year	No.	Short title	Whether repealed or otherwise affected by legislation.
1974	25	The Haryana Corneal Grafting Act, 1974	Amended by Haryana Act 19 of 1989 ²

AN

ACT

to make provision with respect to the use of eyes of deceased persons for therapeutic purposes.

Be it enacted by the Legislature of the State of Haryana in the Twenty-fifth Year of the Republic of India as follows :—

1. (1) This Act may be called the Haryana Corneal Grafting Act, 1974. Short title and extent.

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

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

(a) "approved institution" means a hospital or a medical or teaching institution for therapeutic purpose 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—

1. For Statement of Objects and Reasons, see *Haryana Government Gazette* (Extraordinary), dated the 28th June, 1974, page 881.

2. For Statement of Objects and Reasons, see *Haryana Government Gazette* (Extraordinary), dated the 9th September, 1998, page 1376.

- (i) by lineal or collateral consanguinity within three degrees in lineal relationship and six degrees in 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 respectively in sections 25 and 26 of the Indian Succession Act, 1925 ;

[(c) "registered medical practitioner (ophthalmic)" means a medical practitioner who possesses a recognised medical qualification, included in the First and Third Schedules to the Indian Medical Council Act, 1956, and possesses a post-graduate qualification in ophthalmology or a certificate showing that he has received training in enucleation procedure in the ophthalmic department of a hospital or a teaching institution for therapeutic purposes approved by the State Government in this behalf and who is enrolled on a State Medical Register as defined in clause (k) of section 2 of the said Act.]

Removal of eyes of deceased person.

3. (1) If any person, either in writing at any time or orally in the presence of two or more witnesses²[at least one of whom is a near relative of such person.] during his last illness, has expressed a request that his eyes be used for therapeutic purposes after his death, the persons lawfully in possession of his body after his death, may, unless he has reason to believe that the request was subsequently withdrawn, authorise²[a registered medical practitioner (ophthalmic) for] the removal of the eyes from the body for use 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

1. Substituted by Haryana Act 19 of 1989.

2. Inserted by *ibid.*

unless that 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.

(3) An authority given under the provisions of this section in respect of any deceased persons shall be sufficient warrant for the removal of the eyes from the body and their use for the purpose aforesaid; but no such removal shall be effected except by a registered medical practitioner² [ophthalmic] working in an approved institution who had satisfied himself by a personal examination of the body that life is extinct.

4. 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 the removal of 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. (1) In case of a dead body lying in an approved institution or prison and not claimed by any of the near relatives of the deceased person, the person in charge, for the time being, of the management or in control of the approved institution or prison or by an employee of such approved institution or person, authorised in this behalf by the person in charge of the management or control thereof may give authority for removal of the eyes from the dead body in the form prescribed:

(2) The authority under sub-section (1) shall not be given except after the expiry of—

- (i) half-an-hour from the time of death of the concerned person in cases where no facility for cold storage of the

Authority when not to be given.

No authority for removal of eyes when body is entrusted to person by another only for cremation etc.

Authority for removal of eyes in case of unclaimed bodies.

1. Substituted by Haryana Act 19 of 1989.

2. Inserted by *ibid*.

dead body is available in the approved institution or prison ; or

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

(3) No authority under sub-section (1) shall be given 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 clause (ii) of sub-section (2), as the case may be.

6A. 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 the 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 his eyes for therapeutic purposes after his death, such authority had not been revoked by him before his death.

6B. After the removal of the eyes from the dead body, the registered medical practitioner (ophthalmic) shall take such steps for the preservation of the eyes so removed as may be prescribed.]

Authority for removal of eyes from bodies sent for post-mortem.

Preservation of eyes removed from dead bodies.

7. (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. Saving.

¹[(2) Neither the grant of any authority for the removal of eyes from the dead body in accordance with the provisions of this Act nor the removal of eyes from the dead body in pursuance of such authority shall be deemed to be an offence punishable under section 297 of the Indian Penal Code, 1860.]

7A. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done, under this Act. Protection of action taken in good faith.

8. The Punjab Corneal Grafting Act, 1963 (Punjab Act 13 of 1963), in its application to the State of Haryana, is hereby repealed. Repeal.

²[9. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act. Power to make rules.

(2) In particular, 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 of authority under section 6 ;
- (b) manner of preservation of removed eyes, under section 6-B ;
- (c) 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 the House of State Legislative Assembly 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 session aforesaid, the House agrees in making any modification in the rule or 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 amendment shall be without prejudice to the validity of anything previously done under that rule.]

1. Substituted by Haryana Act 19 of 1989.

2. Added by *ibid.*