

**THE TRANSPLANTATION
OF HUMAN ORGAN ACT
1994**

To provide

- ⦿ For the regulation of removal, storage and transplantation of human organ for therapeutic purpose and [therapeutic means..systemic treatment of any disease or measure to improve health
- ⦿ For prevention of commercial dealing in human organs
- ⦿ Enacted by parliament in the forty-fifth year of the republic of India

Authority for removal of human organ

- ⦿ [1] Any donor may authorize the removal, before his death, of any organ of his body for therapeutic purpose
- ⦿ [2] If any donor had, in writing and in presence of two or more witnesses [at least one of them is a near relative of such person] authorized at any time before his death, the removal of any of organ of his body, after his death, for therapeutic purpose, the person lawfully in possession of dead body shall grant permission for removal of organ for therapeutic purpose

- ① [3] where there is no such authority as in subsection [2] was made by person during his life time **but** no objection was expressed by such person to any one for same , the person lawfully in possession of the dead body, unless he has reasons to believe that any near relative has objection for same, may authorize the removal for therapeutic purpose
- ① [4] authority given under section [1]/[2]/[3]/ shall be sufficient warrant for removal, for therapeutic purpose, but no such removal shall be done by any person other than registered medical practitioner

- ④ [5] where any organ is to be removed for therapeutic purpose, the reg. med. Prac. shall satisfy himself, before removal, by personal examination that life is extinct in such body or it appears to be a case of brain stem death

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- ⦿ [6]where any organ is to be removed in case of brain stem death board of medical expert is formed consisting of
 - i. The reg med prac in charge of hospital in which brain- stem death has occurred
 - ii. Independent reg med prac to be nominated by in charge reg med prac from the panel of names approved by appropriate authority
 - iii. Neurologist or neurosurgeon nominated by in charge reg med prac from the panel of names approved by appropriate authority
 - iv. Reg med pract treating the patient

- ⑦ [7] any thing contained in sub-section 3 , where brain stem death has occurred of any person under age 18 years, and is certified under sub section 6, any of the near relative may give authority

Removal of human organ not to be authorized in certain cases

- ⦿ No facilities should be granted under sub section 2/3 , if person required to grant such facility 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
- ⦿ No authority shall be given by a person to whom such body has been entrusted for the purpose of interment, cremation or other disposal

Authority in case of unclaimed body in hospital or prison

- No claim by any of relative within 48 hrs from the time of death.. by in charge or authorized person
- No authority if in charge has reasons to believe that any near relative is likely to come even though it is not claimed in specified time

When sent for postmortem examination

- If competent person under act to give authority has reason to believe that such organ will not be required for the purpose for which body has been sent for p.m. examination provided he is satisfied that deceased had not expressed, before his death, any objection to any of his organ to be used for therapeutic purpose

Preservation of human organ

- After removal of any human organ Reg Med pra should take necessary steps for preservation of such organ as prescribed

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Restrictions on removal

- ⦿ No organ removed from the body before his death should be transplanted into recipient unless donor is near relative of recipient
- ⦿ After death into the body of any recipient who may be in need of such organ
- ⦿ If donor has authorized for removal and transplantation during his life time to recipient who is not near relative but has affection or attachment prior approval of the authorization
- ⦿ Central govt shall constitute, by notification, one or more committee **for union territory**
- ⦿ State govt shall constitute, by notification, one or more committee consisting of members nominated by state government cont..

Cont..

- ❑ On application jointly made in prescribed form and manner by donor and recipient ,the authorization committee shall, after holding an inquiry and after satisfying itself that applications have complied with all requirements of the said act, grant the application
- ❑ If satisfied that applicants have not complied with requirements rejects application and reasons to be recorded in writing for rejection

Regulation of hospitals

- ⦿ No hospital, unless registered under this act, shall conduct or associate with or help in
- ⦿ No medical practitioner or any other person shall conduct or aid in conducting by himself or through any other person any activity relating to the removal....etc **at place other than place registered under this act**
- ⦿ No place including hospital registered under this act shall be used for removal..etc except for therapeutic purpose
- ⦿ Eyes and ears[ear drums and ear bones] may be removed at any place from the dead body of any donor for therapeutic purpose

Appropriate authority

- ① Central/state government shall appoint, by notification, one or more officers as appropriate authorities for the purpose of this act
- ② Functions..
 - 1) To grant registration or renew registration
 - 2) To suspend or cancel registration
 - 3) To investigate any of breach of any provision
 - 4) Periodic inspection of hospitals for quality and follow up of patient
 - 5) To undertake other measures if required

Registration of hospital

- ⦿ No hospital shall commence any activity unless it is registered under this act
- ⦿ If engaged either partly or exclusively before the commencement of act should have applied within sixty days of commencement or should have ceased such activity within three months of act if not registered or application is disposed off
- ⦿ Application in prescribed form and manner with fee to appropriate authority

- After satisfying that applicant has complied with all requirements of the act grant certificate of registration
- If not satisfied then gives the opportunity to hear the applicant and yet not satisfied reject application with reasons in writing

Punishment for removal without authority

- Person who renders services to hospital and conducts/associates/helps transplantation without authority ..5 years [up to]+ fine 10000 [up to]
- Panel erasure 2 years in first offence and permanent for subsequent offence

Punishment for commercial dealing

- ⦿ Whoever
 - Makes or receive payment for supply of or for an offer to supply any organ
 - Seeks to find a person willing to supply for payment
 - Offers to supply for payment
 - Negotiate or initiate arrangement for payment
 - Publish or distribute an advertisement

Cognizance of offence

- If complaint made by appropriate authority
- Metropolitan or judicial magistrate of first class court