

BOMBAY ACT No. XI OF 1949¹

[THE BOMBAY ANATOMY ACT, 1949]^{2*}

[This Act received the assent of the Governor on the 13th April 1949; assent was first published in the *Bombay Government Gazette*, Part IV, on the 22nd April 1949.]

Adapted and modified by the Adaptation of Laws Order, 1950.

Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

Amended by Bom. 33 of 1957.

Amended by Bom. 44 of 1959.

Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

Amended by Mah. 35 of 1975 (1-9-1976).£

Amended by Mah. 45 of 2000 (4-12-2000).£

An Act to provide for the supply of unclaimed bodies of deceased persons² [and for donation before death by a person of his body or any part thereof after his death] to hospitals and medical and teaching institutions³ [for therapeutic purposes or] for the purpose of⁴ [medical education or research including] anatomical examination and dissection.

WHEREAS it is expedient to provide for the supply of unclaimed bodies of deceased persons² [and for donation before death by a person of his body or any part thereof after his death] to hospitals and medical and teaching institutions³ [for therapeutic purposes or] for the purpose of⁴ [medical education or research including] anatomical examination and dissection; It is hereby enacted as follows :—

1. (1) This Act may be called the Bombay Anatomy Act, 1949.

⁵(2) It extends to the whole of the ⁶[State of Maharashtra.]

(3) This section shall come into force at once.

(4) The ⁷[State] Government may, by notification in the *Official Gazette*, direct that the remaining provisions of this Act shall come into force on such date and in such area as may be specified in the notification :

⁸[Provided that on the date of commencement of the Bombay Anatomy (Extension and Amendment) Act, 1959 the remaining provisions of this Act shall come into force in those local areas in the Vidarbha region, Hyderabad area and Saurashtra area of the State of Bombay^{9**} in which the provisions of the Madhya Pradesh Anatomy Act, 1954, the Hyderabad Pathology and Anatomy Act, 1955 or, as the case may be, the Saurashtra Anatomy Act, 1955 were brought into force before such commencement.]

Short title,
extent and
commencement.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, Part V, page 65.

² This Act was extended to that part of the State of Bombay to which, immediately before the commencement of Bom. 44 of 1959, it did not extend (*vide* Bom. 44 of 1959, s. 2).

³ This indicates the date of commencement of Act.

⁴ These words were inserted by Mah. 35 of 1975, s. 2(1).

⁵ These words were inserted by Bom. 38 of 1957, s. 8(a).

⁶ These words were inserted by Mah. 35 of 1975, s. 2(2).

⁷ Sub-section (2) was substituted for the original by Bom. 44 of 1959, s. 3(1).

⁸ These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

⁹ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

¹⁰ This proviso was added by Bom. 44 of 1959, s. 3(2).

^{**} The words "State of Bombay" stand unmodified, *ibid*.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context.—

(1) “ approved institution ” means a hospital or a medical or teaching institution approved by the ¹[State] Government ²[for all or any of the purposes of this Act] ;

(2) “ authorised officer ” means an officer authorised to act under section 5 ;

(3) “ 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 the aforesaid degrees.

Explanation.—The expressions “ lineal and collateral consanguinity ” shall have the meanings assigned to them in the Indian Succession Act, 1925 ;

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(4) “ prescribed ” means prescribed by rules made under this Act ;

(5) “ unclaimed body ” means the body of a deceased person who has no near relative or whose body has not been claimed by any of his near relatives within such period as may be prescribed.

3. [*Doubt or dispute as to near relative to be referred to Coroner or Authorised officer.*] Deleted by Bom. 44 of 1959, s. 4.

Power of ¹[State] Government to authorise officers to act under section 5.

4. The ¹[State] Government may, by notification in the *Official Gazette*, authorise for the area in which this Act comes into force or any part thereof, one or more officers to whom a report shall be made under section 5 and who shall be competent to act under the said section.

Unclaimed dead bodies to be used for ²[therapeutic purpose or] anatomical examination.

5. (1) Where a person under treatment in a hospital whether established by or vesting in, or maintained by the ¹[State] Government or any local authority, dies in such hospital and his body is unclaimed, the authorities in charge of such hospital shall with the least practicable delay report the fact to the authorised officer and such officer shall then hand over the unclaimed body to the authorities in charge of an approved institution ³[for any therapeutic purpose or] ⁴[for the purposes of medical education or research including] anatomical examination and dissection.

(2) Where a person dies at a hospital other than a hospital referred to in sub-section (1) or in a prison and his body is unclaimed, the authorities in charge of such hospital or prison shall with the least practicable delay report the fact to the authorised officer, and the said officer shall hand over the unclaimed body to the authorities in charge of an approved institution for the purpose specified in sub-section (1).

(3) Where a person having no permanent place of residence in the area where his death has taken place dies in any public place in such area and his body is unclaimed, the authorised officer shall take possession of the body and shall hand it over to the authorities in charge of an approved institution for the purpose specified in sub-section (1).

¹ This word was substituted for the word “ Provincial ” by the Adaptation of Laws Order, 1950.

² These words were substituted for the words “ to carry on Anatomical examination and dissection ” by Bom. 33 of 1957, s. 8(b).

³ These words were inserted by Bom. 33 of 1957, s. 8(c).

⁴ These words were substituted for the words “ for the purpose of conducting ” by Mah. 35 of 1975, s. 3.

⁵ These words were inserted, *ibid.*, s. (2).

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¹[(4) Where there is any doubt regarding the cause of death or when for any other reason the authorised officer considers it expedient so to do, he shall forward the unclaimed body to a police officer referred to in section 174 of the Code of Criminal Procedure, 1898.]^{*}

²[5A. (1) If any doubt or dispute arises as to whether a person claiming the body of a deceased person under section 5 is a near relative of the deceased or not, the matter shall be referred ³[* * *] to the Executive Magistrate or such officer as may be appointed in this behalf by the State Government and his decision shall be final and conclusive.

Doubt or dispute whether person claiming body is near relative to be referred to ⁴[* * *] Executive Magistrate and body to be preserved pending decision.

(2) Pending such decision, the authorised officer shall take all reasonable care and steps to preserve the body of the deceased person from decay.]

⁵[5B. (1) If any person either in writing at any time or orally in the presence of two or more witnesses during his last illness whereof he died has expressed a request that his body or any part of his body be given to authorities in charge of an approved institution for being used after his death for therapeutic purposes or for the purpose of medical education or research including anatomical examination and dissection, 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 dead body or such part thereof to any approved institution for use in accordance with the request.

Donation of dead bodies or any part hereof of deceased person to be used for therapeutic and certain other purposes.

(2) Without prejudice to the provisions of sub-section (1), the persons lawfully in possession of the body of a deceased person may authorise the removal of the whole body or any part from the body for use for the purposes specified in sub-section (1) unless such person has reason to believe—

(a) that the deceased had expressed an objection to his body or any part thereof being so dealt with after his death, and had not withdrawn such objection ; or

(b) that any near relative of the deceased objects to the body being so dealt with.

(3) Subject to the provisions of sub-sections (4) and (5) of this section, the removal and use of the whole body or any part of a body in accordance with an authority given in pursuance of this section shall be lawful, and shall be sufficient warrant for the removal of the body or any part thereof and its use for the purposes of this Act.

(4) In no case shall the body or any part of the body of any person be removed for any of the purposes specified in sub-section (1) from any place where such person may have died until after forty-eight hours from the time of such person's decease, nor until after twenty-four hours' notice, to be reckoned from the time of such decease to ⁶[* * *] the Executive Magistrate, of the intended removal of the body, nor unless a certificate stating in what manner such person came by his death shall, previously to the removal of the body, have been signed by a registered medical practitioner who attended such person during the illness whereof he died, or, if no such practitioner attended such person during such illness, then by a registered medical practitioner who shall be called in after the death of such person to view his body, and who shall

Table of rates of ⁷[octroi] to be affixed on certain places.

¹ Sub-section (4) was added by Bom. 44 of 1959, s. 5(1).

² See now the Code of Criminal Procedure, 1973 (II of 1974).

³ Section 5A was inserted. *ibid.*, s. 6.

⁴ The words and figures "in Greater Bombay to the Coroner or an Additional Coroner appointed under the Coroners Act, 1871 and elsewhere". were deleted by Mah. 45 of 2000, s.2(a).

⁵ The words "Coroner or" were deleted. *ibid.*, s. 2(b).

⁶ Sections 5B to 5F were inserted by Mah. 35 of 1975, s. 4.

⁷ The words "The Coroner or Additional Coroner or" were deleted by Mah. 45 of 2000, s.3.

state the manner and cause of death according to the best of his knowledge and belief, but who shall not be concerned in dealing with the body for any of the purposes aforesaid after removal; and in case of such removal, such certificate shall be delivered together with the body to the authority in charge of an approved institution receiving the same for any of the purposes aforesaid.

(5) If the person lawfully in possession of the body has reason to believe that an inquest or a *post-mortem* examination of such body may be required to be held, in accordance with the provisions of any law for the time being in force, the authority for the removal of the body or any part thereof shall not be given under this section except with the consent of the authority empowered to hold an inquest or order a *post-mortem* under such law.

No authority for removal of body or part thereof when body is entrusted to another only for interment or cremation.

5C. No authority for the removal of the body or any part thereof for the purposes of this Act shall be given under section 5B in respect of any body of a deceased person by a person entrusted with the body for the purpose only of its interment or cremation.

Authority to remove body, etc., when body is lying in approved institution.

5D. In the case of a body lying in any hospital, nursing home or other institution, any authority for the removal of the body or any part thereof under section 5B may be given on behalf of the person having the control or management thereof by any officer or person designated for that purpose by the first-mentioned person.

Approved institutions to receive with body, certificate of death, etc.

5E. The authority in charge of an approved institution, on receiving the body of a deceased person for all or any of the purposes of this Act, shall demand and receive, together with the body, a certificate as aforesaid and shall, within twenty-four hours next after such removal, transmit ¹[* * *] to the Executive Magistrate or such officer as may be appointed in this behalf by the State Government, a copy of such certificate and also a return stating on what day and what hour and from whom the body was received, the date and place of death, the sex and (as far as is known at the time) the christian and surname, age and last place of abode of such person and shall enter, or cause to be entered, the aforesaid particular relating thereto, and a copy of the certificate and the approved authority received therewith, in a register to be kept by such authority for that purpose and shall produce such register whenever required to do so ²[* * *] by the Executive Magistrate or any officer aforesaid.

Notice of place where body will be dealt with for all or any of the purposes of this Act.

5F. Every dead body removed as aforesaid for any of the purposes of this Act shall, before such removal, be placed in a decent coffin or shell or any other thing for holding the dead body, and be removed therein; and that the party removing the same, or causing the same to be removed as aforesaid, shall make provision that such body, after being dealt with for any of the purposes of this Act, be decently cremated or interred in consecrated ground, or in some public cremation or burial ground in use for persons of that religious persuasion to which the person whose body was so removed belonged; and that a certificate of the cremation, interment or burial of such body shall be transmitted ³[* * *] to the Executive Magistrate, or any officer appointed by the State Government for the purposes, within six weeks after the day on which such body was received as aforesaid.]

¹ The words and figures "in Greater Bombay to the Coroner or Additional Coroner appointed under the Coroners Act 1871, and elsewhere" were deleted by Mah. 45 of 2000 s. 4(a).

² The words "by the Coroner or Additional Coroner or, as the case may be," were deleted, *ibid* s. 4 (b).

³ The words "in Greater Bombay to the coroner and elsewhere" were deleted, *ibid.*, s. 5."

6. Whoever disposes of, or abets the disposal of, ¹[a dead body] save as permitted by this Act, or obstructs any authority in charge of an approved institution or an authorised officer from handing over, taking possession of, removing or using, such dead body ²[for all or any of the purposes of this Act] shall, on conviction, be punished with fine which may extend to five hundred rupees. Penalty.

³[7. All officers and servants of the Police, Medical and Public Health Departments all officers and servants in the employ of a local authority and all village officers and servants shall be bound to take all reasonable measures to assist the authorities and officers authorised under this Act in the discharge of their duties under this Act.] Duty of Police and other officers to assist.

8. 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 persons acting under the Act.

9. All officers appointed or authorised to act under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Officers to be public servants.

10. (1) The ⁴[State] Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act. Rules.

(2) Without prejudice to the generality of the provisions of sub-section (1) such rules may prescribe the period within which a near relative shall claim the body of a deceased person.

⁵[10A. Nothing contained in this Act shall be construed to extend to, or to prohibit, any *post-mortem* examination of any human body required or directed to be made under any law for the time being in force in the State.] Act not to prohibit *post-mortem* examination.

10B. (1) Nothing in 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.

(2) Any authority for the removal of the body or any part thereof 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.]

⁶[11. On the date of commencement of the Bombay Anatomy (Extension and Amendment) Act, 1959 (hereinafter in this section referred to as "the said Act"), the following Acts, shall stand repealed, namely:- Repeal and saving.

(1) the Madhya Pradesh Anatomy Act, 1954, in its application to the Vidarbha region of the State of Bombay*;

(2) the Hyderabad Pathology and Anatomy Act, 1955, in its application to the Hyderabad area of the State of Bombay*; and

(3) the Saurashtra Anatomy Act, 1955 :

¹ These words were substituted for the words "an unclaimed body" by Mah. 35 of 1975, s. 5(1).

² These words were substituted for the words "for the purpose specified in the Act", *ibid.*, s. 5(2).

³ Section 7 was substituted for the original by Bom. 44 of 1959, s. 7.

⁴ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

⁵ Sections 10A and 10B were inserted by Mah. 35 of 1975, s. 6.

⁶ Section 11 was added by Bom. 44 of 1959, s. 8.

* The words "State of Bombay" stand unmodified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

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Provided that such repeal shall not affect,—

- (a) the previous operation of any enactment so repealed ;
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed ;
- (c) any penalty incurred in respect of any offence committed against any enactment so repealed ; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability or penalty as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty may be imposed as if the said Act has not been passed :

Provided further that, subject to the preceding proviso, any officer appointed or authorised, or institution approved, or reference made by or under such enactment shall, in so far as it is not inconsistent with this Act, be deemed to have been appointed, authorised, approved or made under the corresponding provisions of this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act :

Provided also that, the rules made under this Act and in force immediately before the date of commencement of the said Act, shall be deemed to be the rules made under this Act in relation to the whole of the State, unless and until superseded by anything done under this Act.]
