

The Bombay Anatomy Act, 1949

GUJARAT

India

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Act 11 of 1949

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The Bombay Anatomy Act, 1949 Bombay Act No. 11 of 1949 [Dated 22nd April, 1949] This Act was extended to that part of the State of Bombay to which, immediately before the commencement of Bombay 44 of 1959, it did not extend (vide Bombay 44 of 1959, Section 2.) For Statement of Objects and Reasons, see Bombay Government Gazette, 1948, Part V, page 65. An Act to provide for the supply of unclaimed bodies of deceased persons to hospitals and medical and teaching institutions [for therapeutic purposes or] [These words were inserted by Bombay 28 of 1957, Section 8 (a).] for the purpose of anatomical examination and dissection. Whereas it is expedient to provide for the supply of unclaimed bodies of deceased persons to hospitals and medical and teaching institutions [for therapeutic purposes or] [These words were inserted by Bombay 28 of 1957, Section 8 (a).] for the purpose of anatomical examination and dissecting; It is hereby enacted as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Bombay Anatomy Act, 1949. (2) [It extends to the whole of the [State of Gujarat.] [Sub-section (2) was substituted for the original by Bombay 44 of 1959, Section 3 (1).]] (3) This section shall come into force at once. (4) The [State] [This word was substituted for the word 'Provincial' by the Bombay Adaptation of Laws Order, 1950.] Government may, by notification in the Official Gazette, direct that the remaining provisions of the Act shall come into force on such date and in such area as may be specified in the notification: [Provided that on the date of commencement of the Bombay Anatomy (Extension and Amendment) Act, 1959 (Bombay XLIV of 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 in which the provisions of the Madhya Pradesh Anatomy Act, 1954 (M. P. XVI of 1954), the Hyderabad Pathology and Anatomy Act, 1955 (Hyderabad X of 1955) or, as the case may be, the Saurashtra Anatomy Act, 1955 (Saurashtra XXXII of 1955) were brought into force before such commencement.] [This proviso was added by Bombay 44 of 1959, Section 3 (2).]

2. Definitions.

- 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 [State] [This word was substituted for the word 'Provincial' by the Bombay Adaptation of Laws Order, 1950.] Government [for all or any of the purposes of this Act;] [These words were substituted for the words 'to carry on Anatomical examination and dissection', by Bombay 33 of 1957, Section 8 (b).](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 (XXXIX of 1925);(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 Bombay 44 of 1959, Section 4.

4. Power of Provincial Government to authorise officers to act under section 5.

- The [State] [This word was substituted for the word 'Provincial' by the Bombay Adaptation of Laws Order, 1950.] 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.

5. Unclaimed dead bodies to be used for [therapeutic purpose or] [These words were inserted by Bombay 44 of 1959, Section 5 (2).] anatomical examination.

(1)Where a person under treatment in a hospital whether established by "or vesting in, or maintained by, the [State] [This word was substituted for the word 'Provincial' by the Bombay Adaptation of Laws Order, 1950.] 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 [for any therapeutic purpose or] [These words were inserted by Bombay 33 of 1957, Section 8 (c).] for the purpose of conducting 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). (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 (V of 1898).] [Sub-section (4) was added by Bombay 44 of 1959, Section 5 (1).]

5A. [Doubt or dispute whether person claiming body is near relative to be referred to Coroner or Executive Magistrate and body to be preserved pending decision. [Section 5-A was inserted, Bombay 44 of 1959, Section 6.]

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

6. Penalty.

- Whoever disposes of, or abets the disposal of, an unclaimed 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 for the purpose specified in the Act, shall, on conviction, be punished with fine which may extend to five hundred rupees.

7. [Duty of police and other officers to assist. [Section 7 was substituted for the original by Bombay 44 of 1959, Section 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.]

8. Protection of persons acting under the Act.

- 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.

9. Officers to be public servants.

- 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 (XLV of 1860).

10. Rules.

(1)The [State] [Section 7 was substituted for the original by Bombay 44 of 1959, Section 7.] Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(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.

11. [Repeal and saving. [Section 11 was added, Bombay 44 of 1959, Section 8.]

- On the date of commencement of the Bombay Anatomy (Extension and Amendment) Act, 1959 (Bombay XLV of 1959) (hereinafter in this section referred to as, "the said Act"), the following Acts, shall stand repealed, namely:-(1)the Madhya Pradesh Anatomy Act, 1954 (M. P. XVI of 1954), in its application to the Vidarbha region of the State of Bombay;(2)the Hyderabad Pathology and Anatomy Act, 1955 (Hyderabad X of 1955), in its application to the Hyderabad area of the State of Bombay; and(3)the Saurashtra Anatomy Act, 1955 (Saurashtra XXXII of 1955):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 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 had 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.]