

SIKKIM ANATOMY ACT, 2014

SIKKIM GOVERNMENT EXTRAORDINARY GAZETTE Gangtok No.12/LD/15 PUBLISHED BY AUTHORITY Monday 6th July, 2015 GOVERNMENT OF SIKKIM LAW DEPARTMENT GANGTOK NOTIFICATION No. 253 Dated: 29.06.2015 The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 18th day of November, 2014 is here by published for general information:- THE SIKKIM ANATOMY ACT, 2014 (ACT NO. 12 OF 2014) AN ACT to provide for the supply of unclaimed dead bodies of deceased persons to hospitals and medical and teaching institutions for therapeutic purpose or for the purpose of anatomical examinations or dissections, surgical operation and research work and for matters connected therewith or incidental thereof. Be it enacted by the legislature of Sikkim in the Sixty-fifth Year of the Republic of India as follows:- Short title extent and 1. Commencement: Definitions: (2) (3) 2. 1 This Act may be called the Sikkim Anatomy Act, 2014. It shall extend to the whole of Sikkim. it shall come into force on such date as the State Government may by Notification in the Official Gazette, appoint. In this Act, unless there of context:- "anatomical examination" is anything repugnant in the subject means;- (a) (b) (c) (d) dissection of various parts of the body, for example head, neck, thorax, abdomen, upper limb, lower limb, brain, spinal cord, thereby identification of muscles, arteries, veins, nerves, in gross of various parts mentioned above, study of various surface landmarks and attachments on human dry bones; study of external and internal features of various organs of the body; "approved institution" means a Government or a Government medical or teaching institute or created by the State Government by notification in the Official Gazette to be an approved institution for the purpose of this Act; "authorized Officer" means an officer authorized under section 5. Donation of bodies or any part thereof for anatomical examination. 3 4 The State Government may, by notification in the Official Gazette, authorize 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 4 and such officer or officers shall be competent to act under the said section. If any person at any time before his death had expressed an intention in writing in the presence of two or more witnesses, that his body or any part of his body be given to an approved institution for being used after his death for the purpose of conducting anatomical examination and dissection or other similar purpose, any person interested may, unless he has reason to believe that the said intention was subsequently revoked authorize the removal of the dead body or such part thereof to any approved institution for use in accordance with the intention. (2) Without prejudice to the provisions of sub-section (1) such person interested may authorize the removal of the whole body or any part from the body for use for the purposes specified in sub-section (1) unless he 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 referred to in clause (f) of section 2 objects to the body being so dealt with. (3) Subject to the provisions of sub-section (4) and (5), 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 to warrant for the removal of the body or any part thereof and its use for the purposes of this Act. (4) The body or any part of the body of any deceased person shall not be removed for any of the purposes specified in sub-section (1) from any place where such person may have died,- (a) (b) within forty-eight hours from the time of such person's death; or until after twenty-four hours' notice, (to be reckoned from the time of such death) to the Executive Magistrate of the intended

removal of the body; or 3 (c) unless a certificate stating in what manner such body shall, previously to the removal of the body, have been signed by the registered medical practitioner who attended such person during such illness, then by a registered practitioner who shall be called in after the death of such person to view his body and who shall state the manner and cause of death to the best of his knowledge and belief, Unclaimed dead bodies to be used for the therapeutic purpose or anatomical examination. 5. (5) (2) (3) shall not be concerned in dealing with the body for any of the purposes aforesaid removal and case of such removal, such certificate shall be delivered together with the body to the authority in charge of an approved institution receiving the body for any of the purposes aforesaid. If the person interested has reason to believe that an inquest or a post-mortem examination of such body is to be held, in accordance with the provisions of any law for the time being in force, the authority, the removal of the body or any part thereof given under this section except with the consent of the authority empowered to hold an inquest or order a post-mortem under such law. "Person under treatment in a hospital whether established or by or vesting in, or maintained by, the 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 authorized officer and such officer shall hand over the unclaimed body to the authorities in charge of an approved institution for any purpose or for the purpose of conducting anatomical examination and dissection. Where a person dies at hospital other than a hospital referred to in sub-section (1) or in a prison and his body unclaimed, the authorities in charge of such prison shall with the least practicable delay report the fact to the authorized officer who shall hand over the unclaimed body to the authorities in charge of an approved institution for the purpose specified in sub-section (1). 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 authorized officer shall take possession of the body and shall hand it over to the authorities in Doubt of dispute whether person claiming body is near relative to referred to Executive Magistrate and body to be preserved pending decision. penalty. Duty of Police and other officers to assist. Protection of person acting under the Act. Officer to be public servant. Power to make rules. 6. 8. 9. 10. 11. (4) (1) (2) charge of an approved institution for the purpose specified in sub-section (1). Where there is any doubt regarding the cause of death or when for any other reason, the authorized 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 1973. If any doubt or dispute arises as to whether a person claiming the body or 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 officers as may be appointed in this behalf by the Government and his decision shall be final and conclusive. Pending such decision, the authorized officer shall take all responsible care and steps to preserve the body of the deceased person from decay. Whosoever 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 authorized officer from handling 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 one thousand rupees. All officers of the Police, Health Care Human Services and Family Welfare Department and all officers in the employment of a local authority and all Panchayats shall be bound to take all reasonable measures to assist the authorities and officers authorized under this Act in the discharge of their duties under this Act. No suit prosecution or other legal proceedings shall lie against any person for anything, which is done in a good faith or intended to be done under this Act. All officers appointed or authorized to act under this Act shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860). (1) (2) The Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act. Without prejudice to the generality of the provisions of sub-section (1) such rules may prescribe the period within which a near relatives shall claim the body of the deceased person. 5 (3) Every rule made under this section shall be laid as soon as may be after it is made before the State Legislature is in session for a total period of thirty-day may be comprised in one session or in two successive sessions, and it before the expiry of the session which it is so laid or the session immediately following the Assembly agrees in making any modification in the rule or the Assembly agrees 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 annulment shall be without prejudice to the validity of anything previously done under that rule. Lakchung Sherpa (SSJS) L.R.-cum-Secretary Law Department.