

ANATOMY ACT, 1977

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 126, 1977.

An Act to amend and re-enact the law relating to anatomy; and to repeal the Anatomy Act, 1901.
[Assented to, 14th December, 1977.]

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.**PRELIMINARY.**

Short title. **1.** This Act may be cited as the "Anatomy Act, 1977".

Commence- **2.** (1) This section and section 1 shall commence on the
ment. date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Division **3.** This Act is divided as follows :—
of Act.

PART I.—PRELIMINARY—ss. 1–5.

PART II.—REGULATION OF ANATOMY—ss. 6–13.

PART III.—GENERAL—ss. 14–19.

SCHEDULE 1.—REPEALS.

Interpre- **4.** In this Act, except in so far as the context or subject-
tation. matter otherwise indicates or requires—

"anatomy" means anatomy of the human body only;

"body" means dead human body;

"Commission" means Health Commission of New South
Wales;

"dispose"

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“dispose”, in relation to a body, means dispose of the body by burial, cremation or other lawful means;

“inspector” means inspector appointed under section 7 (1);

“licence” means licence in force under section 6;

“register” means register required to be kept under section 10;

“regulation” means regulation made under this Act;

“school of anatomy” means a place specified in a licence at which the holder of the licence may conduct the study and practice of anatomy.

5. This Act shall not apply to or in respect of any post mortem examination of a body, or the possession of a body for the purposes of a post mortem examination, where that examination is—

Act not to apply to certain post mortem examinations.

- (a) required or directed to be made by a competent legal authority; or
- (b) made or to be made by a qualified medical practitioner for the purpose of ascertaining the cause or extent of disease.

PART II.

REGULATION OF ANATOMY.

6. (1) The Commission may issue a licence to a person who has duly made an application under subsection (2) to conduct the study and practice of anatomy at a place specified in the licence.

Commission may issue licence to person to conduct study and practice of anatomy.

(2)

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(2) An application for a licence may be made by any person who is in charge of the study and practice of anatomy at any university, college, school or other educational institution or at any research or medical institution.

(3) A licence shall be subject to such terms and conditions as may be determined by the Commission and specified in the licence.

(4) A licence may be issued in the name of the person who applied for the licence or in the name of the holder of his office from time to time.

(5) A licence may be revoked by the Commission at any time.

Inspectors. 7. (1) The Minister may appoint members, officers or servants of the Commission as inspectors for the purposes of this Act.

(2) An inspector may inspect at any time any school of anatomy.

When a body may be used for anatomical examination. 8. (1) Subject to this section, if any person, either in writing at any time or orally in the presence of 2 or more witnesses during his last illness, directs that his body be used for anatomical examination, either generally or at any specified school of anatomy, the person in lawful possession of the body shall, if he learns of that direction before the disposal of the body, offer the body—

(a) in the case of a general direction—to any holder of a licence; or

(b) in the case of a specific direction—to the holder of the licence issued in respect of the specified school of anatomy,

and, if the offer is accepted, permit the body to be used for anatomical examination.

(2)

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(2) Subsection (1) does not apply where the person in lawful possession of a body has reason to believe that—

- (a) the direction referred to in that subsection was withdrawn; or
- (b) the surviving spouse, or, if there is no surviving spouse, the nearest surviving relative, of the deceased objects to the deceased's body being used for anatomical examination.

(3) Subject to this section, any person who has lawful possession of a body may permit the body to be used for anatomical examination unless he has reason to believe—

- (a) that the deceased had expressed an objection to his body being used for anatomical examination after his death and had not withdrawn that objection; or
- (b) that the surviving spouse, or, if there is no surviving spouse, the nearest surviving relative, of the deceased objects to the body being used for anatomical examination.

(4) Notwithstanding any of the provisions of this section, a person in lawful possession of a body shall not permit that body to be used for anatomical examination if he has reason to believe that an inquest may be required to be held on the body.

(5) For the purposes of this section a person does not have lawful possession of a body if he is a funeral director or other person entrusted with the body for the purposes only of its disposal.

9. The holder of a licence shall not take possession of a body for anatomical examination, other than a body transferred pursuant to section 11, unless—

Conditions
of taking
possession
of a body.

- (a) he has been permitted to do so in accordance with section 8; and

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- (b) where section 19 or 27 of the Registration of Births, Deaths and Marriages Act, 1973, applies, he is satisfied that a document referred to in that section has been signed, issued, made or given in relation to the body.

Duty to keep register.

10. (1) The holder of a licence shall, on taking possession of a body for anatomical examination, enter in a register kept for that purpose—

- (a) the name and address of the person who had lawful possession of the body and who delivered the body into his possession;
- (b) the date on which he took possession of the body;
- (c) the date, place and cause of death of the deceased and the sex, name, age and last place of abode of the deceased; and
- (d) such other information as may be prescribed.

(2) The holder of a licence shall, whenever required to do so by an inspector, produce the register kept by him to the inspector.

(3) Each part of a register which contains particulars of a body shall be retained until the expiration of 5 years from the date on which in respect of the body an entry has been made pursuant to section 11 (3) or 12 (4), as the case may require.

Transfer of bodies.

11. (1) The holder of a licence may transfer a body which is in his possession—

- (a) to another holder of a licence; or
- (b) with the approval of an inspector, to any person who is in charge of the study and practice of anatomy at any place outside New South Wales,

for

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for anatomical examination unless he has reason to believe that to do so would be contrary to the wishes of the deceased or the surviving spouse of the deceased or, if there is no surviving spouse, the nearest surviving relative of the deceased.

(2) The holder of a licence shall transmit with a body transferred under subsection (1) a copy of the particulars relating to that body contained in the register kept by him.

(3) The holder of a licence shall, forthwith after transferring a body under subsection (1), enter in the register kept by him opposite the particulars relating to the body—

- (a) the fact that the body was transferred;
- (b) the date on which the body was transferred; and
- (c) the name and address of the person to whom the body was transferred.

12. (1) Subject to subsection (2), the holder of a licence shall dispose of any body which is in his possession for anatomical examination if 4 years have elapsed, or, where some other period is prescribed for the purposes of this section, that period has elapsed, since the death of the deceased. ^{Disposal of bodies.}

(2) Subsection (1) does not apply if the holder of the licence—

- (a) is authorised in writing by an inspector to retain the body;
- (b) complies with any terms and conditions which may be imposed by the inspector in giving the authority; and
- (c) enters in the register kept by him opposite the particulars relating to the body the fact that the authority has been given and the terms and conditions to which the authority is subject.

(3)

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(3) Where the holder of a licence disposes of a body which has been in his possession for anatomical examination, he shall dispose of the body as far as practicable in accordance with any wishes of the deceased but if that is not practicable, or if the deceased has expressed no such wishes, the body shall be disposed of as far as practicable in accordance with any wishes of the surviving spouse of the deceased or, if there is no surviving spouse, the nearest surviving relative of the deceased.

(4) The holder of a licence shall, forthwith after disposing of a body which has been in his possession for anatomical examination, enter in the register kept by him opposite the particulars relating to that body—

- (a) the fact that the body was disposed of;
- (b) the date on which the body was disposed of; and
- (c) the name and address of the person engaged to dispose of the body.

Duties of
person
whose
licence is
revoked.

13. A person whose licence is revoked under section 6 (5) shall forthwith after the revocation of his licence—

- (a) deliver up the licence and the register kept by him to an inspector; and
- (b) transfer or dispose of any body in his possession in accordance with section 11 or 12, as the case may be, as if he were the holder of a licence.

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PART III.

GENERAL.

14. (1) A person shall not keep a body in his possession **Offences.** for anatomical examination at any place other than a school of anatomy.

(2) A person shall not examine any body anatomically at any place other than a school of anatomy.

(3) A person shall not examine any body anatomically unless he is the holder of a licence or is authorised to do so by the holder of a licence.

(4) A person shall not obstruct an inspector acting in the execution of this Act.

15. A person who contravenes any provision of this Act **Penalty.** or the terms and conditions of a licence or authority under this Act shall be guilty of an offence and liable to a penalty not exceeding \$200 or to imprisonment for a term not exceeding 3 months.

16. Proceedings for any offence against this Act or the **Proceedings for offences.** regulations shall be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

17. (1) The Governor may make regulations, not **Regulations.** inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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(2) Without affecting the generality of subsection (1), the Governor may make regulations for or with respect to—

- (a) the manner in which an application for a licence shall be made;
- (b) the duties of inspectors; and
- (c) hygiene in relation to the transport, possession and examination of bodies for the purposes of this Act.

(3) A regulation may be made so as to apply differently according to such factors as are specified in the regulation.

(4) A regulation may impose a penalty not exceeding \$100 for any contravention thereof.

Repeal of Anatomy Act, 1901, and the provisions of Acts amending that Act.

18. Each Act specified in Column 1 of Schedule 1 is, to the extent specified opposite that Act in Column 2 of Schedule 1, repealed.

Savings provisions.

19. (1) A license in force under section 6 of the Anatomy Act, 1901, immediately before the commencement of this section shall be deemed to be a licence under section 6 of this Act if the holder of the license is a person who is eligible to make an application for a licence under this Act.

(2) A license which is continued in force by virtue of subsection (1) shall be deemed to contain a provision that the place at which the holder of the license may conduct the study and practice of anatomy is the place at which he does so immediately before the commencement of this section.

(3)

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(3) A person who, immediately before the commencement of this section, was an inspector under the Anatomy Act, 1901, shall, if he is a member, an officer or a servant of the Commission, be deemed to have been appointed as an inspector under section 7 (1).

(4) The book kept pursuant to section 14 (c) of the Anatomy Act, 1901, as in force immediately before the commencement of this section, by the holder of a license continued in force by virtue of subsection (1) shall be deemed to be a register kept by him under section 10.

SCHEDULE 1.

Sec. 18.

REPEALS.

Column 1.		Column 2.
Year and Number of Act.	Short title of Act.	Extent of Repeal.
1901, No. 9 ..	Anatomy Act, 1901 ..	The whole Act.
1970, No. 52..	Supreme Court Act, 1970	So much of the Second Schedule as relates to Act No. 9, 1901.
1973, No. 9 ..	District Court Act, 1973	So much of Schedule 2 as relates to Act No. 9, 1901.
1974, No. 51..	Metric Conversion Act, 1974.	Item 4 of the Schedule.