

Nagaland Anatomy Bill, 2023

A Bill

AS INTRODUCED IN NL

to provide for the supply of unclaimed bodies of deceased and for donation before death by a person of his body or any part thereof after his death to hospital and medical and teaching institution or for the purpose of medical education or research including anatomical examinations and dissection.

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

1. **Short title extend and commencement.**

- (1) This Act may be called the Nagaland Anatomy Act, 2023.
- (2) It extends to the whole of the State of Nagaland.
- (3) It shall come into force at once.

2. **Definitions:**

In this Act unless there is anything repugnant in the subject or context:-

- (a) **“Act”** means the Nagaland Anatomy Act, 2023.
- (b) **“Approved institution”** means a hospital or a medical or teaching institution approved by the State Government for all or any of the purposes of this Act.
- (c) **“Authorized officer”** means an officer authorized to act under section 3;
- (d) **“Donor”** shall have the same meaning as defined in the Transplantation of Human Organ and Tissues Act, 1994
- (e) **“Persons interested”** means a near relative or any other person who is interested in the disposal of the body of the deceased person in accordance with the religious usage or social custom of such deceased.

Explanation:- for purposes of this clause, “near relative” means any of the following relatives of the deceased, namely, wife, husband, parent, son, daughter, brother or sister and includes any other person who is related to the deceased (i) by lineal consanguinity within three degrees or by collateral consanguinity within six degrees, or (ii) by marriage with any of the relatives aforesaid. The expressions “lineal Consanguinity” and “collateral consanguinity” shall have the meanings assigned to them in the Indian

Succession Act, 1925, (Central Act XXXIX of 1925) and degrees of relationship shall be computed in the manner laid down in that Act;

(d) **“Prescribed”** means prescribed by rules made under this Act.

(e) **“Teaching medical institution”** means any of the institutions specified in the schedule to this Act, and includes any other institution which may be declared by the government, by notification in the official Gazette, to be a teaching medical institution for the purposes of this Act.

(f) **“Unclaimed body”** means a body of a person who dies in a hospital, prison or public place or a place to which members of the public have got access and which has not been claimed by person interested within such time as may be prescribed.

3. Power of State Government to appoint authorized officer and deemed as public servant:

(1) *The State Government may, by notification appoint an Executive Magistrate for such area as may be specified in the notification, to perform the functions of an Authorized Officer under this Act and the rules made there under.*

(2) *Every officer authorised under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).*

4. Unclaimed dead bodies in hospitals, prisons and public places how to be deal with.-

(1) If a person dies in a hospital or in prison and his body is not claimed by any of his near relatives or personal friends (definition of personal friends for clarity in the definition of persons interested) within such time as may be prescribed, the authority 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 take possession of the unclaimed body and except in the case referred to in sub-section (3) hand it over to the authority in charge of a teaching medical institution, if it is required by the authority for the purpose of conducting anatomical examination and dissection.

(2) If a person dies in any public place in an area in which he had no permanent place of residence and the body of that person is not claimed by any of his near relatives or personal friends within such time as may be prescribed, the authorised officer shall take possession of the unclaimed body and except in the case referred to in sub-section (3) hand it over to the authority in charge of a teaching medical institution, if it is required by that authority, for the purpose specified in sub-section (1).

(3) When there is any doubt regarding the cause of death or when for any reason the authorised officer considers it expedient so to do, he shall

forward the unclaimed body to the Police Officer referred to in Section 174 of the Code of Criminal Procedure, 1898.

(4) Where any unclaimed body taken possession of by the authorised officer under this section is not required by the authority in charge of a teaching medical institution for the purpose specified in sub-section (1), it shall be disposed of in such manner as may be prescribed.

5. Donation of dead bodies or any part thereof of deceased person to be used for the purpose of medical education or research including anatomical examination and dissection.

(1) If any person at any time before his or her death had expressed an unequivocal desire and intention in writing in the presence of two or more witnesses that his body or any part of his body thereof be given to authorities in charge of an approved institution for being used after his death 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.

(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) 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:

- (i) within after forty-eight hours from the time of such person's decease, or;
- (ii) after twenty-four hours' notice, to be reckoned from the time of such decease to the Executive Magistrate, of the intended removal of the body,

(iii) nor unless a certificate stating in what manner such person came by his death shall, previously to the removal of the body, has 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 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.

6. Act not to prohibit post-mortem Examination:

- (1) 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.
- (2) 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.

7. No authority for the removal of the body or any part thereof when body is entrusted to another only of its interment or cremation:

No authority for the removal of the body or any part thereof for the purposes of this Act shall be given under section 5 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.

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

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 5 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.

9. Approved institutions to receive body with certificate of death and maintenance of record:

The authority in charge of an approved institution, on receiving the body of 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 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 name 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 by the Executive Magistrate or any officer aforesaid.

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

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 persuasions 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 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.

11. Doubt or dispute as to near relatives or personal friends to be referred to the District Magistrate:

- (1) If any doubt or dispute arises whether a person is or is not a near relative or a personal friend of the deceased for the purpose of section 4, the matter shall be referred to the District Magistrate, or to any Magistrate of the 1st class authorised by him.
- (2) Pending such decision, the body of the deceased person shall be preserved from decay in such manner as may be prescribed.

12. Penalty:

Whoever disposes of, or abets the disposal of an unclaimed body save as provided by this Act, or obstructs any authority in charge of a teaching medical institution or an authorised officer from handing over, or taking possession of, removing or using such dead body for the purpose specified in

this Act shall, on conviction, be punishable with fine which may extend to Rs. 10, 000 (Rupees Ten Thousand).

13. Duty of Police and other officers to assist in obtaining possession of unclaimed bodies:

All officers and servants of the Police, Health & Family Welfare Departments, all officers and servants in the service of a local authority, and all village officers and servants shall be bound to take all reasonable measures to assist authorised officers in the discharge of their duties under this Act.

14. Protection of action taken in good faith:

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 in pursuance of this Act or of any rules made thereunder.

15. Power to make rules:

(1) The State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :

- (i) the time within which the dead body should be claimed by near relatives or personal friends under sub-section (1) and (2) of section 4;
- (ii) the manner in which a dead body not required by a teaching medical institution shall be disposed of under sub-section (4) of section 4;
- (iii) the manner in which the dead body shall be preserved pending decision of the Magistrate under sub-section (1) of section 5.

16. Power to remove difficulties:

(1) If any difficulties arises in giving effect to the provisions of this Act, the State Government may, by such notification or order , make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient, for removing the difficulties;

Provided that such notification shall not be made after the expiration of a period of three years from the date of commencement of this Act.

(2) Every order made under sub section (1) shall as soon as may be after it is made be laid before the State Legislature.

NAGALAND ANATOMY RULES, 2023

NOTIFICATION

Kohima, dated-----2023

No _____: In exercise of the power conferred by clauses (a) (b) and (c) of section (1) and (2) of section 15 of the Nagaland Anatomy, Act 2023, the Governor of Nagaland is pleased to make the following rules namely:-

1. Short title and Commencement:-

- (1) These rules may be called the Nagaland Anatomy Rules, 2023.
- (2) These rules shall come into force with immediate effect.

2. Definitions:- In these rules unless the context otherwise requires:-

“Act” means the Nagaland Anatomy Act, 2023.

- 3:** (i) All officers and servants of the Police and Health & Family Welfare Departments, all officers and servants in the service of a local authority and all village officers and servants who come to know of a death of any person in any public place in an area in which he had no permanent place of residence shall report the fact to the authorised officer with the least practicable delay.
- (ii) Without prejudice to the generality of the foregoing provisions, the responsibility for immediately reporting the fact to the authorised officer and also arranging the removal of the dead body to the hospital for preservation from decay shall be that of the officer in-charge of the Police Station having jurisdiction over the area or the village headman of the area, as the case may be.
- (iii) If the body of such person is not claimed by any of his near relatives or personal friends within a period of 48 hours, the authorised officer shall proceed to deal with the body in the manner laid down in section 4 of the Act.
- 4:** (i) When a person dies in a hospital or in a prison, the authority in charge of such hospital or prison shall immediately report the fact to the nearest relative mentioned in the records of the patient or prisoner. If the said relative or the personal friends of the deceased do not claim the body within 48 hours, the dead body shall be disposed of in the manner laid down in section 4 of the Act.
- (ii) Pending receipt of the claim, if any, in pursuance of sub-rule (1) the dead body shall be removed to the hospital or the teaching medical institution

as the case may be for preservation from decay.

- (iii) If such body is not claimed within the period specified in sub-rule (1) the authorised officer shall proceed to dispose of the body in the manner laid down in section 4 of the Act.
- 5:** The District Magistrate or Magistrate of the First Class authorised by him in this behalf shall for the purpose of deciding any doubt or dispute whether a person is or is not a near relative or a personal friend of the deceased for the purpose of section 4, shall hold a summary inquiry into the matter. Such Magistrate need not record the oral evidence of witnesses, but he shall maintain a memorandum of evidence and a gist of the representations and counter representations made in the case, on the basis of which he arrives at a decision.
- 6:** Pending decision of the District Magistrate or the authorised Magistrate the dead bodies which are received, shall be kept temporarily in the mortuary of a hospital or institution with cold storage arrangement for dead bodies, till they are removed to the Anatomy Department of an institution. In the Anatomy Department they shall be washed and preserved by means of formalin or glycerine solution. Those which are not required for immediate use shall be kept in a tank containing preservation solution.
- 7:** Unclaimed bodies not required by a teaching medical institution may be handed over to a social organisation undertaking cremation/burial according to the religious rites of the community of the dead person. In the absence of any social organisation undertaking cremation/burial of the dead body, the dead body shall be handed over to the local body concerned for disposal.
- Provided that, if the identity of the deceased person is not known or there are no facilities for disposal of his or her body in accordance with the custom of his or her community, the authorised officer may dispose of such body in such manner as deem fit.
- 8:** Nothing contained in these rules shall apply to cases where death has taken place under suspicious circumstances and the body is required for medico-legal examination. In such cases if the Police have not taken possession of it themselves the body shall be handed over to the Police.

Schedule: 1

(Section: 5 of Nagaland Anatomy Act 2023)

THE WILL FORM FOR DONATION OF BODY AFTER DEATHs

Mr/Mrs/Miss/Dr: _____
Age: _____
Address: _____

Religion: _____
Mobile/Tele No: _____
Email: _____
Education: _____
Employment Details: _____
Past Medical History: _____
History of HIV/HBsAg: _____

All my legal heirs, beloved, relatives and friends present at the time of my demise, I, _____ aged _____, hereby express my unequivocal desire and consequently give in writing that after my death, my mortal remains be donated to the Department of Anatomy, _____ (Name of the Medical College).

I further express that I have no objection in my mortal remains being used for dissection, research or any other essential medical purposes.

Will form signed on _____ day of _____ (Month) _____ (Year)

Signature of Donor

Witness No 1:

1. Name: _____
2. Address: _____
3. Relationship: _____
4. Tele/email: _____

Witness No 2/Next of Kin

1. Name: _____
2. Address: _____
3. Relationship: _____
4. Tele/email: _____

5. Signature: _____

5. Signature: _____

Note: Certificates needed with the body –

1. Certificates of natural death signed by a Registered Medical Practitioner/Hospital.
2. Death Pass Certificate from Gram Panchayat / Municipality / Corporation / Magistrate/ Police
3. Signed Consent form from next of kin in case Witness No 2 is not next of kin.