

Western Australia

## **Anatomy Act 1930**



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## Anatomy Act 1930

**An Act to provide for the establishment and regulation of schools of anatomy and to authorise the practice of anatomy thereat.**

**1. Short title**

This Act may be cited as the *Anatomy Act 1930*<sup>1</sup>.

**2. Interpretation**

In this Act, subject to the context —

***authorised school of anatomy*** means a school of anatomy established and conducted under a notice published under section 4;

***Executive Director*** means the Executive Director, Public Health and Scientific Support Services of the department of the Public Service of the State principally assisting the Minister in the administration of this Act;

***inspector*** means an inspector from time to time expressly nominated by the Executive Director for the purposes of this Act;

***medical practitioner*** has the meaning given to that term in the *Medical Practitioners Act 2008* section 4;

***Minister*** means the Minister for Health;

***person*** includes any society howsoever established;

***practice licence*** means a licence granted or renewed under section 5;

***senior next of kin***, in relation to a deceased person, means the first person who is available from the following persons in the order of priority listed —

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- (a) a person who, immediately before the death, was living with the person and was either —
  - (i) the spouse of the person; or
  - (ii) a de facto partner, who is of or over the age of 18 years, of the person;
- (b) a person who, immediately before the death, was the spouse of the person;
- (c) a son or a daughter, who is of or over the age of 18 years, of the person;
- (d) a parent of the person;
- (e) a brother or sister, who is of or over the age of 18 years, of the person; or
- (f) an executor named in the will of the person or a person who, immediately before the death, was a personal representative of the person.

*[Section 2 amended by No. 20 of 1946 s. 2; No. 28 of 1984 s. 4 and 5; No. 10 of 1998 s. 17(1); No. 28 of 2003 s. 4; No. 22 of 2008 s. 162.]*

**3. Administration of Act**

The provisions of this Act shall, subject to the control of the Minister, be administered by the Executive Director and such inspectors as he may deem necessary.

*[Section 3 amended by No. 28 of 1984 s. 5.]*

**4. Minister may authorise schools of anatomy**

- (1) The Minister may, by notice published in the *Gazette*, authorise schools of anatomy to be established and conducted at such places as are determined by the Minister and specified in the notice.
- (2) An authorisation given under subsection (1) is subject to any conditions that are —

- (a) determined by the Minister to be necessary for the proper and efficient conduct of the authorised school of anatomy; and
  - (b) specified in the relevant notice.
- (3) The Minister may, by notice published in the *Gazette*, vary or revoke an authorisation given under subsection (1).

*[Section 4 inserted by No. 10 of 1998 s. 17(2).]*

## **5. Grant and renewal of licences to practise anatomy**

- (1) On the application in the form approved by the Executive Director of the person in charge of an authorised school of anatomy, the Executive Director may grant or renew a practice licence.
- (2) A person who holds a practice licence endorsed in relation to an authorised school of anatomy —
  - (a) may practise anatomy at the authorised school of anatomy; and
  - (b) may authorise in writing other persons to practise anatomy there.
- (3) A practice licence has effect for such period as is, and is subject to such conditions as are, specified in the licence.
- (4) Without limiting subsection (3), it is a condition of every practice licence that the person who holds the licence shall ensure that the practice of anatomy authorised by the licence, or by the person who holds the licence, is carried out according to the provisions of this Act.

*[Section 5 inserted by No. 10 of 1998 s. 17(2).]*

## **6. Executive Director to make returns**

The Executive Director shall make a quarterly return to the Government statistician of every deceased person's body which has been removed for anatomical examination to any place in

his district where the practice of anatomy is carried on, distinguishing the sex and, as far as is known at the time, the name and age of each person whose body was so removed as aforesaid.

*[Section 6 amended by No. 28 of 1984 s. 5.]*

**7. Inspection of places where anatomy is practised**

It shall be lawful for the Executive Director and every inspector to visit and inspect at any time any place where the practice of anatomy is carried on and, from time to time, as prescribed by regulation, he shall report to the Minister in respect of every such inspection.

*[Section 7 amended by No. 28 of 1984 s. 5.]*

**8. Licence to permit removal of bodies for anatomical examination**

Subject to this Act the Minister may, by a licence under his hand, authorise the principal medical officer of the State, the chief executive officer within the meaning of that expression as defined in section 3 of the *Prisons Act 1981*, the inspector general of the insane, or any resident or honorary medical officer connected with any public institution supported wholly or in part from the general revenue, to permit the body of any person who dies in any penal establishment, hospital, or other public institution aforesaid controlled by him or with which he is connected as aforesaid, to be removed therefrom for the purpose of anatomical examination at some authorised school of anatomy, unless to the knowledge of such licensee the deceased person has expressed his desire, either in writing at any time during his life, or verbally in the presence of 2 or more witnesses during the illness whereof he died, that his body after death might not undergo such examination, or unless the senior next of kin of the deceased person requires the body to be interred or cremated without such examination. A printed copy of this section shall be posted in the entrance hall or other

conspicuous place of every such penal establishment, hospital, or public institution, except hospitals for the insane.

*[Section 8 amended by No. 31 of 1993 s. 4; No. 28 of 2003 s. 5.]*

**9. Authority to permit anatomical examination of bodies in certain cases**

Subject to this Act it shall be lawful for any executor or other person having lawful possession of the body of any deceased person, and not being an undertaker or other person entrusted with the body for the purpose only of interment or cremation, to permit the body of such deceased person to undergo anatomical examination at some authorised school of anatomy, unless to the knowledge of such executor or other person the deceased person has expressed his desire, either in writing at any time during his life or verbally in the presence of 2 or more witnesses during the illness whereof he died, that his body after death might not undergo such examination, or unless the senior next of kin of the deceased person requires the body to be interred or cremated without such examination.

*[Section 9 amended by No. 28 of 2003 s. 6.]*

**10. Anatomical examination of body as directed by deceased**

Subject to this Act if any person, either in writing at any time during his life or verbally in the presence of 2 or more witnesses during the illness whereof he dies, directs that his body after death be examined anatomically, or nominates any person under this Act authorised to practise anatomy to make such examination at some authorised school of anatomy, and if before the interment or cremation of the body of such person such direction or nomination is made known to the person having lawful possession of the dead body, then such last mentioned person shall direct such examination to be made, and in case of any such nomination as aforesaid shall request and permit any person so authorised and nominated as aforesaid to make such examination, unless the senior next of kin of the

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deceased person requires the body to be interred or cremated without such examination.

*[Section 10 amended by No. 28 of 2003 s. 7.]*

**10A. Agreements for despatch of bodies to approved schools of anatomy outside the State**

- (1) The Executive Director may, from time to time, with the approval of the Minister, make any agreement, and from time to time revoke or vary the same, with any person in charge of any school of anatomy established under the laws of any other State of Australia for the despatch to such school of anatomy for anatomical examination of bodies of deceased persons from the State of Western Australia and for the regulation of the conditions and manner under and in which any such bodies should be despatched or transported: Provided that every such agreement shall, as well as including any other conditions required by the Executive Director to be included therein, include a provision by which the person in charge of any such school of anatomy shall agree that he, the person in charge of any such school of anatomy, shall make provision that such body, after undergoing anatomical examination, be decently interred in consecrated ground if so desired by the senior next of kin or in some public burying ground in use for persons of that religious persuasion to which the deceased person whose body was so received belonged, or be cremated, and that a certificate of the interment or cremation of such body shall be transmitted to the Executive Director within 12 weeks after the day on which such body was received for examination as aforesaid.
- (2) It shall be lawful for the Executive Director or any person authorised by him in that behalf to receive bodies for despatch and to despatch such bodies in pursuance of any agreement made under subsection (1) to any such school of anatomy: Provided that a certificate or record such as is mentioned in section 12 is delivered together with the body to the Executive Director or to the person receiving the body.

- (3) In shall be lawful for any person who has power under this Act to permit, cause or direct the body of any deceased person to undergo anatomical examination at some authorised school of anatomy, to permit, cause or direct such body to be delivered to the Executive Director or to any person authorised by the Executive Director to receive such bodies for despatch to any school of anatomy pursuant to any agreement made under subsection (1): Provided that any such body shall be delivered in such manner and under such conditions as the Executive Director shall direct.

*[Section 10A inserted by No. 20 of 1946 s. 3; amended by No. 28 of 1984 s. 5; No. 40 of 1998 s. 7(2); No. 28 of 2003 s. 8.]*

**11. Relatives to be notified and consent obtained**

Before the body of any deceased person referred to in sections 8, 9, and 10, is removed for the purposes of anatomical examination, the attention of the senior next of kin or person having the body in his or her possession, control or power shall be directed to the provisions of the said sections and consent thereto obtained in writing.

The term *authority* in this section includes any medical officer, nurse or other person who has attended such deceased person during his illness or stay in any such institution.

*[Section 11 amended by No. 28 of 2003 s. 9.]*

**12. Restrictions on removing body from place of death for anatomical examination**

In no case shall the body of a deceased person be removed for anatomical examination from any place where such person has died until after the expiration of 12 hours from the time of such person's decease, nor until after the expiration of 6 hours' notice to the Executive Director of the intended removal of the body, nor unless before the removal of the body —

- (a) a certificate of cause of death has been provided under section 44 of the *Births, Deaths and Marriages*

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*Registration Act 1998* in relation to the person by a medical practitioner other than one concerned in examining the body after the removal; or

- (b) a coroner has made findings as to how the death occurred and the cause of death,

as is applicable to the case; and the certificate or the record of the coroner's findings shall be delivered together with the body to the person receiving the same for anatomical examination.

*[Section 12 amended by No. 28 of 1984 s. 5; No. 40 of 1998 s. 7(3).]*

**13. Authority to receive bodies for anatomical examination**

It shall be lawful for any authorised school of anatomy to receive or possess for anatomical examination the body of any deceased person, if permitted or directed so to do by a person who had at the time of giving such permission or direction lawful possession of the body, and who had power under this Act to permit or cause the body to be so examined, and provided such certificate or record as aforesaid was delivered by such person together with the body.

*[Section 13 amended by No. 40 of 1998 s. 7(4).]*

**14. Certificate to be sent to Executive Director**

Every person in charge of an authorised school of anatomy so receiving a body for anatomical examination after the removal shall demand and receive together with the body a certificate or record as aforesaid, and shall within 24 hours next after the receipt of the body by him transmit to the Executive Director such certificate or record and also a return stating at what day and 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 proper full name and the age and last place of abode of the deceased person, and shall enter or cause to be entered the aforesaid particulars relating thereto, and a copy of the certificate or record he received with the body, in a book to be

kept by him for that purpose, and shall produce such book whenever required so to do by the Executive Director or any inspector.

*[Section 14 amended by No. 28 of 1984 s. 5; No. 40 of 1998 s. 7(5).]*

**15. Anatomy unlawful except in certain circumstances**

It shall not be lawful for any person to carry on or teach anatomy at any place or at any place to receive or possess for anatomical examination, or examine anatomically, any deceased person's body, except at an authorised school of anatomy and under the authority of a practice licence or of a person who holds a practice licence.

*[Section 15 amended by No. 10 of 1998 s. 17(6).]*

**16. Dealing with bodies used for anatomical examination**

Every such body removed for the purpose of examination as aforesaid shall before such removal be placed in a decent coffin or shell and be removed therein; and the person receiving the same, or causing the same to be received, shall make provision that such body, after undergoing anatomical examination, be decently interred in consecrated ground, if so desired by the senior next of kin, or in some public burying ground in use for persons of that religious persuasion to which the deceased person whose body was so received belonged, or be cremated, and that a certificate of the interment or cremation of such body shall be transmitted to the Executive Director within 6 weeks after the day on which such body was received for examination as aforesaid.

*[Section 16 amended by No. 28 of 1984 s. 5; No. 28 of 2003 s. 10.]*

**17. Variation of period for transmitting certificate**

The Governor may by Order in Council vary the period limited by the last preceding section as the time within which

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certificates of interment or cremation are to be transmitted to the Executive Director.

*[Section 17 amended by No. 28 of 1984 s. 5.]*

**18. Removal of body parts unlawful in certain circumstances**

It shall be unlawful for any person to take or remove from a body of any deceased person any portion or specimen part thereof before such body is received into an authorised school of anatomy, or to take or remove, except for burial or cremation, any portion or specimen part of a body, from an authorised school of anatomy or to have in his possession, any portion or specimen part of a body which has been taken or removed in contravention of this section:

Provided that this section shall not apply to a person —

- (a) who holds a practice licence or is authorised by a person who holds a practice licence; and
- (b) who is approved in writing by the Executive Director,

taking or removing a portion or specimen part of a body or having the same in his possession by and with the authority of an authorised school of anatomy for educational, scientific, or research purposes.

*[Section 18 amended by No. 28 of 1984 s. 5; No. 10 of 1998 s. 17(7).]*

**19. Protection of certain persons**

A person who holds a practice licence, and any person authorised by a person who holds a practice licence, shall not be liable to any prosecution, penalty, forfeiture, or punishment for receiving or having in his possession for anatomical examination or for examining anatomically any dead human body according to the provisions of this Act.

*[Section 19 amended by No. 10 of 1998 s. 17(8).]*

**20. Post mortem examination not prohibited**

Nothing in this Act shall be construed to extend to or prohibit —

- (a) any post mortem examination of any human body required or directed to be made by any competent legal authority;
- (b) any post mortem examination of any human body made by a medical practitioner for the purpose of ascertaining by actual inspection the cause or extent of disease; or
- (c) the removal of any tissue from a human body for grafting within the meaning of the *Tissue Grafting and Processing Act 1956*<sup>2</sup> as amended from time to time.

*[Section 20 inserted by No. 7 of 1971 s. 2.]*

*[21. Deleted by No. 35 of 1935 s. 48A(2).]*

**22. Offences**

- (1) Every person who practises anatomy or receives or has in his possession for anatomical examination or examines anatomically any dead human body otherwise than in accordance with the provisions of this Act shall be guilty of a crime, and, on conviction, shall be liable to imprisonment for 2 years.
- (2) Every person or authority who contrary to the provisions of this Act permits or causes any dead human body to be removed out of his possession for the purposes of anatomical examination shall be guilty of a crime, and, on conviction, shall be liable to a fine of \$1 000.
- (3) Every person shall be guilty of an offence against this Act —
  - (a) who in any manner obstructs or impedes, or attempts to obstruct or impede, the Executive Director or any inspector in the execution of his powers and duties under this Act;

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- (b) who fails in any respect to comply with the conditions specified in or applicable to a licence held by him under this Act;
- (c) who fails to transmit any certificate or return, which by this Act he is required to transmit, to the Executive Director; or who fails on demand to produce any book to the Executive Director or to an inspector as required by this Act;
- (d) who in any other respect not hereinbefore specifically mentioned fails to comply with the provisions of this Act.

Penalty for each offence: \$1 000.

*[Section 22 amended by No. 113 of 1965 s. 8(1); No. 28 of 1984 s. 5; No. 51 of 1992 s. 16(1); No. 78 of 1995 s. 147; No. 10 of 1998 s. 17(9) and (10); No. 70 of 2004 s. 82.]*

**23. Regulations**

The Governor may make regulation for the conduct, equipment, inspection and control of authorised schools of anatomy, for the discipline thereof, and for prescribing forms of applications, licences, certificates, returns and notices under this Act, and fees to be paid on the grant of a licence under this Act, and all such matters as by this Act are required or permitted to be prescribed.

## Notes

- <sup>1</sup> This is a compilation of the *Anatomy Act 1930* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Anatomy Act 1930</i>	23 of 1930	19 Dec 1930	19 Dec 1930
<i>Anatomy Act Amendment Act 1946</i>	20 of 1946	14 Jan 1947	14 Jan 1947
<i>Limitation Act 1935</i> s. 48A(2)	35 of 1935 (as amended by No. 73 of 1954 s. 5)	14 Jan 1955	Relevant amendment (see s. 48A(2) <sup>3</sup> which was inserted by No. 73 of 1954 s. 5) took effect on 1 Mar 1955 (see No. 73 of 1954 s. 2 and <i>Gazette</i> 18 Feb 1955 p. 343)
<b>Reprint of the <i>Anatomy Act 1930</i> approved 9 Apr 1963</b> (includes amendments listed above except those in the <i>Limitation Act 1935</i> s. 48A(2))			
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965 (see s. 2(1))
<b>Reprint of the <i>Anatomy Act 1930</i> authorised 18 Mar 1970</b> (includes amendments listed above except those in the <i>Limitation Act 1935</i> s. 48A(2))			
<i>Anatomy Act Amendment Act 1971</i>	7 of 1971	13 Sep 1971	13 Sep 1971
<i>Health Legislation Amendment Act 1984</i> Pt. II	28 of 1984	31 May 1984	1 Jul 1984 (see s. 2 and <i>Gazette</i> 15 Jun 1984 p. 1629)
<i>Criminal Law Amendment Act (No. 2) 1992</i> s. 16(1)	51 of 1992	9 Dec 1992	6 Jan 1993
<i>Acts Amendment (Ministry of Justice) Act 1993</i> Pt. 2 <sup>4</sup>	31 of 1993	15 Dec 1993	1 Jul 1993 (see s. 2)
<i>Sentencing (Consequential Provisions) Act 1995</i> s. 147	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998</i> s. 17 <sup>5</sup>	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))

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Short title	Number and year	Assent	Commencement
<i>Acts Repeal and Amendment (Births, Deaths and Marriages Registration) Act 1998 s. 7</i>	40 of 1998	30 Oct 1998	14 Apr 1999 (see s. 2 and <i>Gazette</i> 9 Apr 1999 p. 1433)
<b>Reprint of the <i>Anatomy Act 1930</i> as at 22 Feb 2002</b> (includes amendments listed above)			
<i>Acts Amendment (Equality of Status) Act 2003 Pt. 2</i>	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
<i>Criminal Law Amendment (Simple Offences) Act 2004 s. 82</i>	70 of 2004	8 Dec 2004	31 May 2005 (see s. 2 and <i>Gazette</i> 14 Jan 2005 p. 163)
<i>Medical Practitioners Act 2008 s. 162</i>	22 of 2008	27 May 2008	1 Dec 2008 (see s. 2 and <i>Gazette</i> 25 Nov 2008 p. 4989)

<sup>2</sup> Repealed by the *Human Tissue and Transplant Act 1982*.

<sup>3</sup> The *Limitation Act 1935* s. 48A(2) reads as follows:

- “
- (2) The provisions of any Act which enact that in an action to which section 47A of this Act applies,
- (a) the action is to be commenced within a particular time; or
- (b) notice of action is to be given within a particular time or otherwise,
- are repealed.

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<sup>4</sup> The *Acts Amendment (Ministry of Justice) Act 1993* Pt. 19 reads as follows:

“

## **Part 19 — Savings and transitional**

### **68. Savings**

If this Act is not passed until after 1 July 1993, anything done after that day but before this Act is passed that would have been in accordance with law if this Act had not come into operation but as a result of the coming into operation of this Act is contrary to law, is deemed to be in accordance with law.

### **69. Transitional**

Unless the contrary intention appears, a reference, however expressed, in any law or document to the former Department of Corrective Services or Crown Law Department, the chief executive officer of either of those departments, or an office or

organizational unit within either of those departments, is to be read as a reference to the Ministry of Justice, the chief executive officer of the Ministry of Justice, or the corresponding office or unit within the Ministry of Justice, as is appropriate.

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<sup>5</sup> The *Statutes (Repeals and Minor Amendments) Act (No. 2) 1998* s. 17(3), (4) and (5) read as follows:

“

- (3) A school of anatomy authorised under section 4 of the Act immediately before the commencement of this section is to be taken, on and after that commencement, to be the subject of an authorisation given under section 4 of the Act as amended by this section.
- (4) A person in charge of a school of anatomy referred to in subsection (3) immediately before the commencement of this section is to be taken, on and after that commencement, to hold a practice licence granted under section 5 of the Act as amended by this section that is —
  - (a) endorsed in relation to the school of anatomy; and
  - (b) valid for 6 months from that commencement.
- (5) A licence granted by the Governor under section 5 of the Act and in force immediately before the commencement of this section continues to have effect, on and after that commencement, as if this section had not been enacted.

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