

NORTHERN TERRITORY OF AUSTRALIA

EMERGENCY MEDICAL OPERATIONS ACT

As in force at 1 January 1992

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As in force at 1 January 1992

EMERGENCY MEDICAL OPERATIONS ACT

An Act relating to the Performance of Emergency Medical Operations

1 Short title

This Act may be cited as the *Emergency Medical Operations Act*.

2 Interpretation

(1) In this Act:

blood transfusion means the transfusion of human blood or a constituent of human blood.

de facto partner means:

- (a) in relation to a man – a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and
- (b) in relation to a woman – a man who is living with her as her husband on a bona fide domestic basis although not married to her.

infant means:

- (a) a person who is under 18 years of age; or
- (b) a person whose age is unknown and who appears to be under 18 years of age.

next of kin, in relation to a patient, means the spouse of the patient, a de facto partner of the patient, or a person related by blood to the patient.

operation means a surgical operation, and includes the administration of an anaesthetic or a blood transfusion.

- (2) For the purposes of this Act, the process of removing all or part of the blood of a person and replacing it with blood taken from another person shall be deemed to be a blood transfusion.

3 Performance of operation without consent

- (1) Subject to this section, a medical practitioner may perform an operation on a patient without the consent of the patient or of any other person having authority in law to give consent to the performance of the operation if that medical practitioner is, and, in the case of a patient who is an infant, that medical practitioner and at least one other medical practitioner are, of the opinion that:
 - (a) the patient is in danger of dying or of suffering a serious permanent disability; and
 - (b) the performance of an operation on the patient is desirable in order to prevent the death of the patient or the occurrence of the disability.
- (2) A medical practitioner is not entitled to perform an operation, being a blood transfusion, in pursuance of subsection (1), unless he is satisfied that the blood to be transfused is compatible with the blood of the patient.
- (3) A medical practitioner is not entitled to perform an operation under subsection (1) on a patient, not being a person who is an infant or is otherwise incapable in law of giving his consent to the performance of an operation on himself, unless:
 - (a) the patient is, by reason of his medical condition, incapable of giving his consent to the performance of the operation; and
 - (b) the medical practitioner is of the opinion that, in the circumstances, it is not practicable to delay the performance of the operation until the consent of the patient or of his next of kin can be sought.
- (4) A medical practitioner is not entitled to perform an operation on a patient, being an infant, in pursuance of subsection (1):
 - (a) unless the medical practitioner is of the opinion that, in the circumstances, it is not practicable to delay the performance of the operation until the consent of a de facto partner or parent or guardian of the infant, if the infant is unmarried, or of his next of kin, if he is married, as the case may be, to the performance of the operation can be sought; or
 - (b) unless a de facto partner or parent or guardian of the infant, if the infant is unmarried, or of his next of kin, if he is married, as the case may be, upon being asked to give consent to the performance of the operation has failed to give that consent.

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- (5) A medical practitioner is not entitled to perform an operation in pursuance of subsection (1) on a patient, being a person, other than an infant, who is incapable in law of giving his consent to the performance of an operation on himself, unless the medical practitioner is of the opinion that, in the circumstances, it is not practicable to delay the performance of the operation until the consent of the person having authority in law to consent to the performance of the operation can be sought.
 - (6) Where an operation is performed in accordance with this section, the operation shall, for all purposes, be deemed to have been performed with the consent of the person having authority in law to consent to the performance of the operation.

4 Liability of medical practitioner not affected

Nothing in this Act relieves a medical practitioner from liability in respect of the performance of an operation on a patient, being a liability to which he would have been subject if the operation had been performed with the consent of the person having authority in law to consent to the performance of the operation.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
<i>Gaz</i> = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION

Emergency Medical Operations Ordinance 1973 (Act No. 45, 1973)

Assent date	18 July 1973
Commenced	18 July 1973

Statute Law Revision Act 1985 (Act No. 49, 1985)

Assent date	1 October 1985
Commenced	1 October 1985

De Facto Relationships (Miscellaneous Amendments) Act 1991 (Act No. ,)

Assent date	24 December 1991
Commenced	1 January 1992 (s 2)

3 LIST OF AMENDMENTS

lt	amd No. 49, 1985, s 4
s 1	amd No. 49, 1985, s 4
s2	amd No. 49, 1985, s 4; No. 82, 1991, s 6
s 3	amd No. 82, 1991, s 6
s 4	amd No. 49, 1985, s 4