

NORTHERN TERRITORY OF AUSTRALIA

TRANSPLANTATION AND ANATOMY ACT

As in force at 17 March 2014

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 17 March 2014

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## TRANSPLANTATION AND ANATOMY ACT

An Act to provide for the removal and use of human tissues, the regulation of schools of anatomy, when death occurs for the laws of the Territory, and for related purposes

### Part 1 Preliminary matters

#### 1 Short title

This Act may be cited as the *Transplantation and Anatomy Act*.

#### 2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### 3 Repeal

- (1) The *Trading in Blood (Prohibition) Act 1974* (No. 29 of 1974) is repealed.
- (2) The *Anatomy Act* (No. 317 of 1884) of the State of South Australia ceases to apply in the Territory as a law of the Territory.

#### 4 Definitions

In this Act:

***anatomy authorisation*** means an authorisation under section 22B.

***authorised purpose*** means:

- (a) for regenerative tissue – the removal of the tissue from a person's body for any of the following:
  - (i) transplantation to another person's body;
  - (ii) use for other therapeutic purposes;
  - (iii) use for other medical or scientific purposes; or

- (b) for non-regenerative tissue – the removal of the tissue from a person's body for transplantation to another person's body.

**authorised school of anatomy** means a school of anatomy of an educational institution for which an anatomy authorisation is in force.

**child** means a person who has not attained the age of 18 years and is not married.

**code of practice** means a code of practice in force under section 22D.

**coroner** has the same meaning as in the *Coroners Act*.

**next of kin** means:

- (a) in relation to a child – a person referred to in paragraph (a)(i), (ii) or (iii) of the definition of **senior available next of kin**; and
- (b) in relation to any other person – a person referred to in paragraph (b)(i), (ii), (iii) or (iv) of that definition.

**designated officer**, for a hospital, means the person appointed under section 7(2)(a) of the *Medical Services Act* to be the person in charge of the hospital.

**donor**, for Part 2, Division 5, see section 16.

**educational institution** means a higher education institution, or interstate university, as defined in section 4 of the *Higher Education Act*.

**holder**, of an anatomy authorisation, means the governing body of the educational institution to which the authorisation applies.

**non-regenerative tissue** means tissue other than regenerative tissue.

**regenerative tissue** means tissue that, after injury or removal, is replaced in the body of a living person by natural processes of growth or repair.

**senior available next of kin** means:

- (a) in relation to a child, the first in order of priority of the following persons who is available at the time:
- (i) a parent of the child;

- (ii) a brother or sister, who has attained the age of 18 years, of the child;
- (iii) a guardian of the child; and
- (b) in relation to any other person, the first in order of priority of the following persons who is available at the time:
  - (i) a spouse or de facto partner of the person;
  - (ii) a son or daughter, who has attained the age of 18 years, of the person;
  - (iii) a parent of the person;
  - (iv) a brother or sister, who has attained the age of 18 years, of the person.

***tissue:***

- (a) generally – includes:
  - (i) an organ; and
  - (ii) a part of a human body; and
  - (iii) a substance extracted from, or from a part of, a human body; but
- (b) for Part 2 – see section 6.

***transplantation***, of tissue, includes transplantation of:

- (a) a part of the tissue; and
- (b) a substance obtained from the tissue.

#### **4A Authorisation of retention of tissue**

An authorisation under this Act to remove or use tissue for an authorised purpose also authorises the retention of the tissue to the extent the retention is reasonably necessary for the purpose.

## **5            Application of Part IIAA of Criminal Code**

Part IIAA of the Criminal Code applies to an offence against this Act.

*Note for section 5*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

## **Part 2            Donation of tissue by living persons**

### **Division 1        Exclusion of certain tissue**

#### **6            Meaning of *tissue* in Part 2**

In this Part:

*tissue* does not include:

- (a) foetal tissue; or
- (b) spermatozoa or ova.

### **Division 2        Donations by adults**

#### **7            Blood transfusions excluded**

Nothing in this Division prevents the removal in accordance with Division 4 of blood from the body of a person.

#### **8            Consent by adult living donor to removal of tissue**

- (1) A person may, by signed writing, consent to the removal from his or her body of tissue for an authorised purpose if the person:
  - (a) is an adult; and
  - (b) is of sound mind; and
  - (c) has been given medical advice about the removal of the tissue.
- (2) A consent for the removal of non-regenerative tissue:
  - (a) must specify the time when the consent is given; and

- (b) does not have effect until 24 hours after it is signed.

*Notes for section 8*

- 1     *The donor's consent may be given by way of an advance consent decision in an advance personal plan. If so, it has effect even if the person loses decision-making capacity for the removal of the tissue (see Part 4 of the Advance Personal Planning Act).*
- 2     *If the donor does not have decision-making capacity, Part 4 of the Advance Personal Planning Act may permit consent to be given:*
- (a) *in relation to regenerative tissue – by a decision maker or adult guardian; or*
- (b) *in relation to any tissue – by the Local Court.*
- Such consent has effect as the consent of the donor.*

**10            Certificate of medical practitioner**

- (1) This section applies in relation to consent under section 8 given by the donor personally or by another individual as permitted by section 42 of the *Advance Personal Planning Act*.
- (2) A medical practitioner may certify in writing:
- (a) that the consent in writing of a person, the terms of which consent are set out in the certificate, was given in the medical practitioner's presence; and
- (b) that the medical practitioner explained to the person before the consent was given the nature and effect of the removal of the tissue specified in the consent; and
- (c) that the medical practitioner is satisfied:
- (i) that, at the time the consent was given, the person had attained the age of 18 years; and
- (ii) that, at that time, the person was of sound mind; and
- (iii) that the consent was freely given.

**Division 3            Effect of consent**

**11            When consent authorises removal of tissue**

- (1) This section applies in relation to consent to remove tissue from a person's body for an authorised purpose if:
- (a) a medical practitioner has given a certificate under section 10 for the consent; or

- (b) the consent was given by the Local Court as permitted by section 44 of the *Advance Personal Planning Act*.
- (2) The consent authorises the removal of the tissue stated in the consent from the person's body for the stated authorised purpose by:
- (a) for consent given by an individual – a medical practitioner other than the medical practitioner who gave the certificate under section 10; or
  - (b) for consent given by the Local Court – a medical practitioner.

*Note for subsection (2)*

*A consent for the removal of non-regenerative tissue does not have effect until 24 hours after the consent is given, see section 8(2).*

### **13            When consent does not authorise removal of tissue**

Despite section 11, a consent given in accordance with section 8 does not authorise a medical practitioner to remove tissue if:

- (a) the medical practitioner has been informed in accordance with section 16 or 16A(6) that the consent has been revoked; or
- (b) the medical practitioner knows or has reasonable grounds for suspecting that a certificate given for the purpose of section 10 contains a false statement.

## **Division 4            Donations of blood**

### **14            Consent to removal of blood**

A person who is of sound mind and at least 16 years of age may consent to the removal of blood from his or her body for any of the following purposes:

- (a) transfusion to another person or use of the blood (including its constituents) for other therapeutic purposes;
- (b) medical purposes;
- (c) scientific purposes.

*Notes for section 14*

- 1     *If the donor is over 18 years of age, his or her consent may be given by way of an advance consent decision in an advance personal plan, If so, it has effect even if the person loses decision-making capacity for the removal of blood (see Part 4 of the Advance Personal Planning Act).*



2     *If the donor is over 18 years of age and does not have decision-making capacity, Part 4 of the Advance Personal Planning Act may permit consent to be given by a decision maker or adult guardian or the Local Court. Such consent has effect as the consent of the donor.*

## **15            Effect of consent to removal of blood**

A person's consent under section 14 authorises the removal of blood from the person's body:

- (a) at a hospital; or
- (b) at a place, or in a vehicle, used for the purpose by an entity approved by the Minister for this section.

## **Division 5            Revocation of consent**

### **16            How consent revoked**

If consent to the removal of tissue from a person's body has been given for the purposes of this Act, the donor may revoke the consent at any time by indicating, either orally or in writing, it is revoked to:

- (a) if the donor is a patient in a hospital:
  - (i) a designated officer for the hospital; or
  - (ii) a medical practitioner who is attending the donor in a professional capacity; or
  - (iii) a person registered under the Health Practitioner Regulation National Law to practise in the nursing and midwifery profession as a nurse (other than as a student); or
- (b) otherwise – a medical practitioner who is attending the donor in a professional capacity.

*Note for section 16*

*If the donor is over 18 years of age and does not have decision-making capacity, Part 4 of the Advance Personal Planning Act may permit consent to be revoked by a decision maker, adult guardian or the Local Court.*

### **16A            Obligations of persons informed about revocation**

- (1) The medical practitioner or nurse to whom the revocation of the consent is indicated under section 16(a)(ii) or (iii) must immediately inform the designated officer for the hospital that the consent has been revoked.

- (2) Subsection (3) applies to:
- (a) the designated officer for the hospital:
    - (i) to whom the revocation of the consent is indicated under section 16(a)(i); or
    - (ii) who is informed about the revocation of the consent under subsection (1); or
  - (b) the medical practitioner to whom the revocation of the consent is indicated under section 16(b).
- (3) The medical practitioner or designated officer (the *responsible person*) must make the inquiries that are reasonable in the circumstances to find out whether a medical practitioner is proposing to rely on the consent for the removal of tissue from the donor's body.
- (4) If the responsible person finds out a medical practitioner is proposing to so rely on the consent, the responsible person must immediately inform the medical practitioner that the consent has been revoked.

Maximum penalty:        100 penalty units.

- (5) An offence against subsection (4) is an offence of strict liability.
- (6) It is a defence to a prosecution for an offence against subsection (4) if the defendant establishes a reasonable excuse.

## **17        Revoked consent and certificate to be given to donor**

- (1) This section applies if:
- (a) consent is revoked under section 16; and
  - (b) a medical practitioner or designated officer for a hospital informs the person who has possession of the instrument of consent that it has been revoked.
- (2) Immediately after being informed of the revocation, the person must give the donor:
- (a) the instrument of consent; and
  - (b) if the person has possession of the certificate given under section 10 for the consent – the certificate.

Maximum penalty:        100 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subsection (2) if the defendant establishes a reasonable excuse.

## **Part 3                    Donation of tissue after death**

### **18                    Authorisation by designated officer for hospital**

- (1) Subject to this Part, a designated officer for a hospital may, by signed writing, authorise the removal of tissue from the body of a deceased person at the hospital for an authorised purpose if:
  - (a) the designated officer has no reason to believe the deceased:
    - (i) had, during his or her lifetime, expressed the wish for, or consented to, the removal of tissue from his or her body for an authorised purpose after death; or
    - (ii) had, during his or her lifetime, expressed an objection to the removal of tissue from his or her body for an authorised purpose after death; and
  - (b) the designated officer:
    - (i) has no reason to believe the senior available next of kin of the deceased has an objection to the removal of tissue from the body of the deceased for an authorised purpose; or
    - (ii) is unable to ascertain the existence or whereabouts of any of the next of kin of the deceased; or
    - (iii) is unable to ascertain whether any of the next of kin of the deceased has an objection to the removal of tissue from the body of the deceased for an authorised purpose.
- (2) The designated officer must not give the authorisation unless the designated officer makes the inquiries that are reasonable in the circumstances.

Maximum penalty:        100 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.

**19 Authorisation by senior available next of kin before death**

- (1) The senior available next of kin of a person in a hospital (the *patient*) may advise the designated officer for the hospital at any time the patient is unconscious and before death that the next of kin has no objection to the removal of tissue from the patient's body for an authorised purpose after the patient's death.
- (2) The advice authorises the removal of the tissue from the patient's body for an authorised purpose after the patient's death.
- (3) However, subsection (2) does not apply if:
  - (a) there is more than one senior available next of kin of the patient; and
  - (b) one of them:
    - (i) has an objection to the removal of the tissue; and
    - (ii) advises the designated officer of the objection.
- (4) Also, the advice ceases to have effect if the patient regains consciousness.

**19A Authorisation by senior available next of kin after death**

- (1) This section applies if the body of a deceased person is not at a hospital.
- (2) Subject to this Part, the senior available next of kin of the deceased may, by signed writing, authorise the removal of tissue from the deceased's body for an authorised purpose.
- (3) However, subsection (2) does not apply if the senior available next of kin reasonably believes the deceased:
  - (a) had, during his or her lifetime, expressed an objection to the removal of the tissue from his or her body; and
  - (b) had not withdrawn the objection.
- (4) Also, subsection (2) does not apply if:
  - (a) there is more than one senior available next of kin of the deceased; and
  - (b) one of them has an objection to the removal of the tissue.

**19B Authorisation by deceased**

- (1) This section applies if, during his or her lifetime, a deceased person:
  - (a) by signed writing expressed the wish for, or consented to, the removal of tissue from his or her body after death for an authorised purpose; and
  - (b) had not withdrawn the wish or revoked the consent.
- (2) The removal of the tissue from the deceased's body in accordance with the wish or consent is authorised.

**20 Consent by a coroner**

- (1) This section applies to a deceased person:
  - (a) whose death is or may be a reportable death within the meaning of section 12 of the *Coroners Act*, or
  - (b) in respect of whom a medical practitioner has not given a certificate as to the cause of death; or
  - (c) in respect of whose death the Supreme Court has made an order under section 16(3) of the *Coroners Act* that an inquest be held.
- (2) If a designated officer for a hospital, or the senior available next of kin of the deceased, reasonably believes this section applies to the deceased, the designated officer or next of kin cannot authorise the removal of tissue from the deceased's body unless a coroner has given consent to the removal.
- (3) Section 19B does not apply in relation to a deceased person to whom this section applies unless a coroner has given consent to the removal of tissue from the body of the deceased person.
- (4) A coroner may give a direction either before or after the death of a person to whom this section applies or may apply, that the coroner's consent to the removal of tissue from the body of the person after the death of the person is not required and, in that event, subsections (2) and (3) do not apply in relation to the removal of tissue from the body of the person.
- (5) A consent or direction by a coroner under this section may be expressed to be subject to such conditions as are specified in the consent or the direction.

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- (6) A consent or direction may be given orally by a coroner and, where so given, must be confirmed in writing.

## 21 When medical certificates required

- (1) If the respiration and circulation of the blood of a person are being artificially maintained, tissue must not be removed from the person's body for an authorised purpose unless:
- (a) 2 medical practitioners, qualified as mentioned in subsection (2), have carried out a clinical examination of the person; and
  - (b) each of them has certified in writing that in his or her opinion, at the time of the examination, irreversible cessation of all function of the person's brain has occurred.
- (2) For subsection (1)(a):
- (a) each of the medical practitioners must have been practising the medical profession for at least 5 years; and
  - (b) one of them must be a medical specialist.
- (3) For subsection (2)(a), a period a medical practitioner practised under the law of another country that provides for the registration of persons practising in the medical profession must be taken into account in working out the 5-year period.
- (4) In this section:

***medical specialist*** means a person registered under the Health Practitioner Regulation National Law in a recognised specialty stated in the following table and whose specialist title for the specialty is stated opposite:

Specialty	Specialist title
Anaesthesia	Specialist anaesthetist
Intensive care medicine	Specialist intensive care physician
Physician	Specialist physician
Physician	Specialist neurologist
Surgery	Specialist general surgeon
Surgery	Specialist neurosurgeon

## **22 Effect of authorisation under this Part**

- (1) An authorisation under section 18, 19, 19A or 19B authorises a medical practitioner to remove the tissue from the body of the deceased stated in the authorisation for the authorised purpose stated in it.
- (2) However, subsection (1) does not authorise the removal of tissue by:
  - (a) a medical practitioner mentioned in section 21(1); or
  - (b) if the authorisation is given under section 18 by the designated officer for a hospital, or a delegate of the designated officer, who is a medical practitioner – the designated officer or delegate.

## **Part 4 Teaching, study and practice of anatomy**

### **22A Offences relating to teaching, study and practice of anatomy**

A person must not use the body, or a part of the body, of a deceased person for any of the following purposes otherwise than at an authorised school of anatomy:

- (a) the teaching and study of anatomy;
- (b) the practice of anatomy.

Fault elements:

The person:

- (a) intentionally uses the body or body part for the purpose; and
- (b) is reckless as to whether it is used at an authorised school of anatomy or other place.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

*Note for section 22A*

*A medical practitioner does not commit an offence against this section by performing an autopsy under the direction of a coroner under the Coroners Act, see section 43BE of the Criminal Code.*

**22B Anatomy authorisation**

- (1) The Chief Health Officer may, by *Gazette* notice, authorise the conduct of the following at a school of anatomy of an educational institution:
  - (a) the teaching and study of anatomy;
  - (b) the practice of anatomy.

*Note for subsection (1)*

*The authorisation may, under section 42 of the Interpretation Act, be limited to the conduct of specified activities, including for example, the teaching and study of anatomy, or anatomical examinations, of a specified part of the human body.*

- (2) The Chief Health Officer may impose reasonable conditions on the authorisation.
- (3) The conditions must be stated in the *Gazette* notice.

**22C Contravention of condition of anatomy authorisation**

The holder of an anatomy authorisation must not engage in conduct that results in a contravention of a condition of the authorisation.

Fault elements:

The holder:

- (a) intentionally engages in the conduct; and
- (b) is reckless as to whether the conduct would result in a contravention of a condition of the authorisation.

Maximum penalty: 200 penalty units.

**22D Codes of practice**

- (1) The Chief Health Officer may make a code of practice relating to the conduct of activities under an anatomy authorisation.
- (2) Without limiting subsection (1), the code of practice may be made about the following matters:
  - (a) the way in which bodies, or parts of bodies, are transported to authorised schools of anatomy;
  - (b) how the teaching, study and practice of anatomy are conducted;



- (c) the giving of returns and other information by the holders of anatomy authorisations;
  - (d) the procedures for receiving and keeping bodies, or parts of bodies, at authorised schools of anatomy;
  - (e) the inspection of authorised schools of anatomy;
  - (f) the disposal of bodies, or parts of bodies, by the holder of an anatomy authorisation.
- (3) Also, the code of practice may apply, adopt or incorporate (with or without changes) a matter contained in another document or instrument as in force or existing at a particular time or from time to time.
- (4) The Minister must publish notice in the *Gazette* of the making of the code of practice.
- (5) The code of practice has no effect until publication of the notice.
- (6) The Chief Health Officer must publish the code of practice on the Agency's website.
- (7) A person commits an offence if the person engages in conduct that results in a contravention of a provision of the code of practice.

Fault elements:

The person:

- (a) intentionally engages in the conduct; and
- (b) is reckless as to whether the conduct would result in a contravention of the provision.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

## **Part 5 Prohibition of trading in tissue**

### **22E Unauthorised contracts and arrangements**

- (1) A person commits an offence if:
- (a) the person:
    - (i) enters, or agrees or offers to enter, into a contract or arrangement; or

- (ii) holds himself or herself out as being willing to enter into a contract or arrangement; or
  - (iii) inquires whether someone is willing to enter into a contract or arrangement; and
- (b) under the contract or arrangement, the person agrees, for valuable consideration (whether given or to be given to the person or anyone else), for the supply of tissue from the person's body or another person's body (whether before or after the death of the person or other person).

Fault element: The person intentionally engages in conduct mentioned in subsection (1)(a).

Maximum penalty: 400 penalty units or imprisonment for 2 years.

- (2) However, subsection (1) does not apply if the contract or arrangement:
- (a) is entered into in accordance with an authorisation under section 22F; or
  - (b) provides only for the reimbursement of expenses necessarily incurred by the person for the removal of tissue under this Act.
- (3) Also, subsection (1) does not apply in relation to the supply of tissue if:
- (a) the tissue is obtained under a contract or arrangement authorised under section 22F; and
  - (b) the tissue has been subjected to processing or treatment; and
  - (c) the tissue is supplied for use, in accordance with the directions of a medical practitioner, for therapeutic or scientific purposes.
- (4) A contract or arrangement mentioned subsection (1)(b) is void unless it is entered into in accordance with an authorisation under section 22F.
- (5) In this section:
- supply*** includes sale.

**22F Authorisation to enter into contract or arrangement**

- (1) The Minister may, by signed writing, authorise a person to enter into a contract or arrangement of a kind mentioned in section 22E(1)(b) if the Minister is satisfied there are special circumstances to do so.
- (2) The authorisation is subject to the conditions imposed by the Minister and stated in it.

**Part 6 When death occurs for Territory laws****23 When death occurs**

For a law of the Territory, a person has died when there has occurred:

- (a) irreversible cessation of all function of the person's brain; or
- (b) irreversible cessation of circulation of blood in the person's body.

**Part 7 Miscellaneous matters****25 Exclusion of liability**

- (1) Subject to this Act, a person is not liable in any proceedings, whether civil or criminal, for any act done in pursuance of, by reason of, or as a result of, a consent, agreement or authorisation given, or purporting to have been given, in pursuance of this Act where the act is done without negligence and in good faith.
- (2) Without limiting subsection (1), a person is regarded as having done an act referred to in subsection (1) in good faith if the person establishes that:
  - (a) the person had an honest and reasonable belief that a consent, agreement or authorisation required by this Act for the doing of the act had been given; or
  - (b) the person had no reason to doubt that a consent, agreement or authorisation purporting to have been given in accordance with this Act for the doing of the act was a consent, agreement or authority given in accordance with this Act.

**26 Act does not prevent specified removals of tissue etc.**

Nothing in this Act applies in relation to:

- (a) the removal of tissue from the body of a living person in the course of a procedure or operation carried out, in the interests of the health of the person, by a medical practitioner:
  - (i) with the consent, express or implied, given by or on behalf of the person; or
  - (ii) in accordance with the *Emergency Medical Operations Act*, or
- (b) the use of tissue so removed; or
- (c) the embalming of the body of a deceased person; or
- (d) the preparation, including the restoration of any disfigurement or mutilation, of the body of a deceased person for the purpose of interment or cremation.

**27 Offence to remove tissue without consent or authorisation**

A person must not remove tissue from the body of a person (whether living or dead) unless the removal is done in accordance with an authorisation under this Act.

Fault elements:

The person:

- (a) intentionally removes the tissue; and
- (b) is reckless as to whether the removal is done in accordance with the authorisation.

Maximum penalty: 400 penalty units or imprisonment for 4 years.

*Note for section 27*

*A medical practitioner does not commit an offence against this section by performing an autopsy under the direction of a coroner under the Coroners Act, see section 43BE of the Criminal Code.*

**27A Offence to make misleading statement**

- (1) A person must not make a misleading statement in a certificate given for this Act.

Fault elements:

The person:

- (a) intentionally makes the statement; and
- (b) knows the statement is misleading; and
- (c) knows the certificate is made for this Act.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

- (2) In this section:

*misleading* means misleading in a material particular or because of the omission of a material particular.

**28 Unlawful disclosure of confidential information**

- (1) A person commits an offence if the person engages in conduct that results in the disclosure of confidential information to someone else.

Fault elements:

The person:

- (a) intentionally engages in the conduct; and
- (b) is reckless as to whether the conduct would result in the disclosure of the information; and
- (c) is reckless as to whether the information is confidential information.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Subsection (1) does not apply in relation to confidential information disclosed:

- (a) in pursuance of an order of a court or when otherwise required by law; or
- (b) for the purposes of hospital administration or bona fide medical research; or

- (c) with the consent of the person to whom the information relates; or
  - (d) when the circumstances in which the disclosure is made are such that the disclosure is or would be privileged.
- (3) In this section:
- confidential information*** means information that identifies, or is likely to identify the person:
- (a) from whose body tissue has been removed for an authorised purpose; or
  - (b) in relation to whom or whose body a consent or authorisation has been given under this Act; or
  - (c) into whose body tissue has been, is being, or may be, transplanted.

## 29 Delegation by designated officer for hospital

- (1) The designated officer for a hospital may delegate any of the designated officer's powers and functions under this Act to a health practitioner employed or engaged by the hospital.
- (2) However, the designated officer may do so only if satisfied the health practitioner has appropriate qualifications or experience for the delegation.
- (3) In this section:

***health practitioner*** means a person registered under the Health Practitioner Regulation National Law to practise in a health profession (other than as a student).

## 30 Regulations

- (1) The Administrator may make regulations under this Act.
- (2) A regulation may provide for the following:
  - (a) the conditions under which transplantations of tissue from living persons may be conducted;
  - (b) the procedures for the removal or storage of tissue removed from living persons;
  - (c) the regulation of premises where transplantations of tissue from living persons may be conducted;

- (d) the regulation of authorised schools of anatomy;
- (e) fees payable under this Act;
- (f) the enforcement of a code of practice, including by providing that a contravention of the code of practice is an offence against a regulation;
- (g) an offence against a regulation to be an offence of strict or absolute liability but not with a penalty exceeding 100 penalty units.

## **Part 8                      Transitional matters for Human Tissue Transplant Amendment Act 2010**

### **31                      Definitions**

In this Part:

*amending Act* means the *Human Tissue Transplant Amendment Act 2010*.

*commencement* means the commencement of section 20 of the amending Act.

*re-enacted*, for a provision of this Act, means the provision as re-enacted by the amending Act.

### **32                      References to consents and documents given under Act**

A reference in this Part to a consent, approval, authorisation or certificate given under a provision of this Act is a reference to a consent, approval, authorisation or certificate that:

- (a) was given under the provision before the commencement; and
- (b) immediately before the commencement, had not been revoked.

### **33                      Consent to removal of tissue**

A consent given under section 8 or 9 continues to have effect, or has effect, as if it were given under the section as re-enacted.

### **34                      Approval of place for blood donation**

An approval given under section 15(b) has effect as if it were given under the section as re-enacted.

**35 Revocation of consent to removal of tissue**

This Act, as in force immediately before the commencement, continues to apply in relation to the revocation of a consent under section 16 before the commencement as if the amending Act had not been enacted.

**36 Authorisation to remove tissue after death**

- (1) An authorisation mentioned in section 18(2) given by the person in charge of a hospital continues to have effect as if the amending Act had not been enacted.
- (2) Another authorisation given under section 18 or an authorisation given under 19 continues to have effect, or has effect, as if it had been given under the section as re-enacted.

**37 Medical certificate as to irreversible cessation of brain function**

A certificate given under section 21 continues to have effect as if it had been given under the section as re-enacted.

**38 Authorised contract or arrangement for supply of tissue**

An authorisation given under section 24 continues to have effect as if it had been given under the section as re-enacted.

**39 *Interpretation Act* not affected**

This Part does not limit Part III of the *Interpretation Act*.



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**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*****Human Tissue Transplant Act 1979* (Act No. 121, 1979)**

Assent date	15 October 1979
Commenced	1 December 1979 ( <i>Gaz</i> G48, 30 November 1979, p 1)

***Human Tissue Transplant Amendment Act 1989* (Act No. 50, 1989)**

Assent date	20 September 1989
Commenced	20 September 1989

***De Facto Relationships (Miscellaneous Amendments) Act 1991* (Act No. 82, 1991)**

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

***Medical (Consequential Amendments) Act 1995* (Act No. 8, 1995)**

Assent date	10 April 1995
Commenced	1 June 1995 (s 2, s 2, <i>Medical Act 1995</i> (Act No. 7, 1995) and <i>Gaz</i> S21, 1 June 1995)

***Statute Law Revision Act 1995* (Act No. 14, 1995)**

Assent date	23 June 1995
Commenced	23 June 1995

***Statute Law Revision Act 1997* (Act No. 17, 1997)**

Assent date	11 April 1997
Commenced	1 May 1997 ( <i>Gaz</i> G17, 30 April 1997, p 2)

***Statute Law Revision Act 1999* (Act No. 27, 1999)**

Assent date	18 June 1999
Commenced	18 June 1999

***Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003* (Act No. 1, 2004)**

Assent date	7 January 2004
Commenced	17 March 2004 ( <i>Gaz</i> G11, 17 March 2004, p 8)

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***Statute Law Revision Act 2005 (Act No. 44, 2005)***

Assent date 14 December 2005  
Commenced 14 December 2005

***Human Tissue Transplant Amendment Act 2006 (Act No. 26, 2006)***

Assent date 19 September 2006  
Commenced 19 September 2006

***Health Practitioner (National Uniform Legislation) Implementation Act 2010 (Act No. 18, 2010)***

Assent date 20 May 2010  
Commenced 1 July 2010 (s 2)

***Human Tissue Transplant Amendment Act 2010 (Act No. 46, 2010)***

Assent date 13 December 2010  
Commenced 13 April 2011 (*Gaz S17*, 13 April 2011)

***Health Practitioner (National Uniform Legislation) Implementation Act 2012 (Act No. 17, 2012)***

Assent date 22 May 2012  
Commenced 1 July 2012 (s 2)

***Advance Personal Planning (Consequential Amendments) Act 2013 (Act No. 36, 2013)***

Assent date 19 December 2013  
Commenced pt 3: 5 February 2014 (*Gaz G5*, 5 February 2014, p 2);  
rem: 17 March 2014 (*Gaz S14*, 17 March 2014)

**3 SAVINGS AND TRANSITIONAL PROVISIONS**

s 72 *Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003*  
(Act No. 1, 2004)

**4 LIST OF AMENDMENTS**

It sub No. 46, 2010, s 4  
pt 1 hdg sub No. 46, 2010, s 21  
s 1 amd No. 46, 2010, s 5  
s 4 amd No. 8, 1995, s 4; No. 14, 1995, s 12; No. 27, 1999, s 15; No. 1, 2004,  
s 62; No. 44, 2005, s 22; No. 46, 2010, s 6  
s 4A ins No. 46, 2010, s 7  
s 5 sub No. 46, 2010, s 7  
pt 2 hdg sub No. 46, 2010, s 21  
s 6 sub No. 46, 2010, s 8  
s 8 sub No. 46,2010, s 9  
amd No. 36, 2013, s 131  
s 9 rep No. 46, 2010, s 9  
s 10 amd No. 46, 2010, s 21; No.36 , 2013, s 132  
s 11 sub No. 46,2010, s 10; No. 36, 2013, s 133  
s 12 rep No. 46, 2010, s 10  
s 13 amd No. 46, 2010, s 21; No. 36, 2013, s 134  
s 14 sub No. 26, 2006, s 3  
amd No. 36, 2013, s 135  
s 15 sub No. 46, 2010, s 11  
s 16 amd No. 27, 1999, s 15; No. 44, 2005, s 22; No. 18, 2010, s 89  
sub No. 46,2010, s 12  
amd No. 36, 2013, s 136

## ENDNOTES

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s 16A	ins No. 46, 2010, s 12 amd No. 36, 2013, s 137
s 17	amd No. 82, 1991, s 11 rep No. 1, 2004, s 62 ins No. 46, 2010, s 12 amd No. 36, 2013, s 138
pt 3 hdg	sub No. 46, 2010, s 21
ss 18 – 19	sub No. 46, 2010, s 13
ss 19A – 19B	ins No. 46, 2010, s 13
s 20	amd No. 17, 1997, s 11; No. 46, 2010, s 14
s 21	amd No. 50, 1989, s 2 sub No. 46, 2010, s 15
s 22	sub No. 46, 2010, s 15
pt 4 hdg	sub No. 46, 2010, s 16
ss 22A – 22D	ins No. 46, 2010, s 16
pt 5 hdg	sub No. 46, 2010, s 16
ss 22E – 22F	ins No. 46, 2010, s 16
pt 6 hdg	ins No. 46, 2010, s 16
s 23	sub No. 46, 2010, s 16
pt 7 hdg	sub No. 46, 2010 s 21
s 25	amd No. 46, 2010, s 21
s 26	amd No. 46, 2010, s 21
s 27	sub No. 46, 2010, s 17
s 27A	ins No. 46, 2010, s 17
s 28	amd No. 46, 2010, s 18
s 29	sub No. 46, 2010, s 19 amd No. 17, 2012, s 55
pt 8 hdg	ins No. 46, 2010, s 20
ss 31 – 39	ins No. 46, 2010, s 20