



## NORTHERN TERRITORY OF AUSTRALIA

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No. 46 of 1985

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### AN ACT

To amend the *Notifiable Diseases Act*

[Assented to 19 September 1985]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

#### 1. SHORT TITLE

This Act may be cited as the *Notifiable Diseases Amendment Act 1985*.

#### 2. COMMENCEMENT

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

#### 3. PRINCIPAL ACT

The *Notifiable Diseases Act* is in this Act referred to as the Principal Act.

#### 4. NEW PART

The Principal Act is amended by inserting after Part III the following:

"PART IIIA - LIABILITY OF RED CROSS SOCIETY,  
&c., IN RESPECT OF AIDS

#### "26A. INTERPRETATION

"(1). In this Part -

'AIDS' means the disease known as Acquired Immune Deficiency Syndrome in any of its stages;

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'approved' means approved by the Chief Medical Officer;

'donor' means a blood donor;

'Society' means the society incorporated by Royal Charter under the name of the Australian Red Cross Society;

'specified action' means an action at law brought by or on behalf of -

(a) a person who claims to have contracted AIDS -

(i) by reason of having been administered blood supplied by the Society or a blood product derived from blood supplied by the Society;

(ii) by reason of having been involved in the taking, testing, handling, producing, supplying, or administering to a patient of blood supplied by the Society or a blood product derived from blood supplied by the Society; or

(iii) from a person who contracted AIDS in a circumstance specified in subparagraph (i) or (ii); or

(b) a dependant of a person who dies as a result of having contracted AIDS in a circumstance specified in paragraph (a).

"(2) For the purposes of sections 26B and 26C, the specified requirements in relation to taking blood from a donor are that -

(a) before taking the blood, the Society obtains from the donor a declaration comprising or including the form in Schedule 6; and

(b) before supplying the blood to be administered to a person or to be used in the preparation of blood products to be administered to a person, a sample of the blood is tested, using approved equipment and in accordance with an approved method, for the presence of antibodies to the AIDS virus and the Society ascertains that the result of the test is negative.

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"26B. LIABILITY OF RED CROSS SOCIETY

"In a specified action against -

- (a) the Society;
- (b) an officer or employee of, or person working whether with or without payment or reimbursement for, the Society; or
- (c) any other person or body who takes blood from a donor on behalf of the Society,

it is a defence that the Society complied with the specified requirements, or caused the specified requirements to be complied with, in taking the relevant blood and in testing, processing, and handling that blood and blood products derived from that blood.

"26C. LIABILITY OF HOSPITALS AND MEDICAL PRACTITIONERS, &c.

"In a specified action against -

- (a) a hospital or other body at whose premises blood supplied by the Society or a blood product derived from blood supplied by the Society is administered to a patient; or
- (b) a medical practitioner, or a person acting on behalf of a medical practitioner, who administered to a patient or authorized the administration to a patient of blood supplied by the Society or a blood product derived from blood supplied by the Society,

it is a defence that -

- (c) at the time the blood or blood product was administered there was attached to the container in which the blood or blood product was contained a certificate purporting to be signed by the person in charge of the laboratory at which a sample of the blood was tested, stating that a sample of the blood or, in the case of the blood product, a sample of each unit of blood from which the blood product was derived, was tested, using approved equipment and in accordance with an approved method, for the presence of antibodies to the AIDS virus and the result of the test was negative; or
- (d) the Society complied with the specified requirements or caused them to be complied with in respect of the taking of the relevant blood and the testing, processing, and handling of that blood or of blood products derived from it.

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#### "26D. LIABILITY WHERE REQUIREMENTS NOT COMPLIED WITH

"(1) The defence afforded by section 26B does not apply if, after the Society has supplied blood to be administered to a person or to be used in the preparation of a blood product to be administered to a person, the Society has reasonable grounds for believing that that blood or blood product is likely to contain antibodies to the AIDS virus and -

- (a) the Society does not take all reasonable steps to ascertain whether the blood or blood product has been administered to a person; or
- (b) having taken those steps and having reason to believe that that blood or blood product has not been so administered, the Society does not take all reasonable steps to ensure that the blood or blood product is not administered to a person.

"(2) The defence afforded by section 26C does not apply if, at any time up to and including the time at which the blood or blood product was administered, the hospital or other body at the premises of which the blood or blood product was administered -

- (a) had been informed that that blood or blood product was likely to contain antibodies to the AIDS virus; and
- (b) did not take all reasonable steps to ensure that the blood or blood product was not administered to a person.

"(3) The defence afforded by section 26C does not apply to or in relation to a medical practitioner or person acting on behalf of a medical practitioner if, at the time the blood or blood product was administered, the medical practitioner or other person had been informed that that blood or blood product was likely to contain antibodies to the AIDS virus.

#### "26E. LIABILITY OF BLOOD DONOR

"(1) A person who, in a declaration referred to in section 26A(2)(a), makes a statement that is false in a material particular is guilty of an offence.

Penalty: \$5,000 or imprisonment for 2 years.

"(2) No proceedings, civil or criminal, other than proceedings under subsection (1), lie against a donor of blood by reason only of a person having contracted AIDS from the administration to the person of blood given by, or of a blood product derived partly from blood given by, that donor.

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"(3) Subsection (2) does not apply to or in relation to a blood donor who has been found guilty of an offence against subsection (1).

### "26F. EVIDENTIARY CERTIFICATES

"For the purposes of this Part, a certificate purporting to be signed by the person in charge of the laboratory at which a sample of blood was tested and stating that -

- (a) the blood sample was tested using approved equipment and in accordance with an approved method; and
- (b) the results specified in the certificate were obtained,

is evidence of the matters so stated and of the facts on which they are based."

### 5. REGULATIONS

Section 39 of the Principal Act is amended by adding at the end the following:

"(3) The Administrator may, by notice in the Gazette, amend the form of declaration set out in Schedule 6, and every such notice shall have effect as if it were an Act of the Legislative Assembly."

### 6. SCHEDULE 3 AMENDED

Schedule 3 to the Principal Act is amended by inserting at the beginning "AIDS (Acquired Immune Deficiency Syndrome)".

### 7. NEW SCHEDULE

The Principal Act is amended by adding after Schedule 5 the following:

#### "SCHEDULE 6

Sections 26A(2)(a),  
26E, and 39(3)

#### "DECLARATION BY PERSON INTENDING TO DONATE BLOOD

#### "WARNING

"Supplying blood that may be infected with AIDS (Acquired Immune Deficiency Syndrome) may endanger the life of recipients of the blood or of blood products derived from the blood. Testing procedures used may not detect the infection.

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I have read the aforementioned warning and paragraphs 1 to 9 following and hereby declare that, to the best of my knowledge -

1. I have not engaged in male to male sexual activity during the past 5 years.
2. I have not injected myself, nor been injected, with any drug not prescribed or provided by a qualified medical practitioner within the past 5 years.
3. I am not suffering from night sweats, unintentional weight loss, persistent fever, or swollen glands.
4. I have no reason to believe that I am suffering from AIDS (Acquired Immune Deficiency Syndrome) or any disease related to it.
5. I have not received a blood transfusion or recurring treatment with human blood products within the past 5 years.
6. My spouse or any sexual partner of mine has not done, suffered, or received, as the case may be, any of the things described in items 1, 2, 3, 4, or 5.
7. I have not been treated by acupuncture, had my ears or nose pierced, or been tattooed within the past 5 years.
8. I have not had an attack of malaria or taken anti-malarial drugs within the past 2 years.
9. I have not had jaundice or hepatitis in the past 12 months or been in close contact with any person suffering from those diseases within the past 6 months.

I am signing this declaration in the presence of a member of the staff of the Red Cross Society.

NAME OF DONOR:

(Signature of donor)

(Signature of witness)".

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