



Australian Capital Territory

# **Transplantation and Anatomy Act 1978**

**A1978-44**

**Republication No 13**

**Effective: 1 July 2010 – 29 February 2012**

Republication date: 1 July 2010

Last amendment made by A2010-10

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Transplantation and Anatomy Act 1978* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 July 2010. It also includes any amendment, repeal or expiry affecting the republished law to 1 July 2010.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



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# Transplantation and Anatomy Act 1978

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R13  
01/07/10

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Australian Capital Territory

## Transplantation and Anatomy Act 1978

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An Act to make provision for and in relation to the removal of human tissues for transplantation, for post-mortem examinations, for the definition of death, for the regulation of schools of anatomy, and for related purposes

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Transplantation and Anatomy Act 1978*.

### 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition '*school of anatomy*, for part 5 (Donations for anatomical purposes)—see section 36.' means that the term 'school of anatomy' is defined in that section for part 5.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 3 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act s 127 (1), (4) and (5) for the legal status of notes.

### 4 Meaning of *transplantation*

For this Act, the *transplantation* of tissue includes the transplantation of any part of the tissue and the transplantation of a substance obtained from the tissue.

### 5 Designated officers

- (1) For this Act, the Minister may appoint a doctor to be a designated officer for a hospital conducted by the Territory.



- (2) The persons or body having the control and management of a hospital other than a hospital conducted by the Territory may, in writing, appoint the doctors that those persons or that body consider necessary to be, for this Act, designated officers for that hospital.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

*Note 3* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

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

### **Division 2.1 Exclusion of certain tissue**

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

In this part:

*tissue* does not include foetal tissue, spermatozoa or ova.

### **Division 2.2 Donations by adults**

#### **7 Blood transfusions not subject to div 2.2**

Nothing in this division prevents the removal in accordance with division 2.5 of blood from the body of a person.

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

A person may give his or her written consent to the removal from his or her body of specified regenerative tissue (other than blood)—

- (a) for the purpose of the transplantation of the tissue to the body of another living person; or
- (b) for use for other therapeutic purposes or for medical or scientific purposes.

#### **9 Consent by adult living donor to removal of non-regenerative tissue for transplantation**

- (1) A person may give his or her written consent to the removal from his or her body, at any time after the end of 24 hours from the time when the consent is given, of specified non-regenerative tissue for the purpose of the transplantation of the tissue to the body of another living person.

- (2) A consent given under subsection (1) shall specify the time when the consent is given.

**10 Doctor may give certificate in relation to consent**

A doctor may certify in writing—

- (a) that the written consent of a person, the terms of which consent are set out in the certificate, was given in his or her presence; and
- (b) that he or she explained to the person before the consent was given the nature and effect of the removal from the body of that person of the tissue specified in the consent; and
- (c) that he or she is satisfied—
  - (i) that, at the time the consent was given, the person was at least 18 years old; and
  - (ii) that, at that time, the person was of sound mind; and
  - (iii) that the consent was freely given.

**Division 2.3 Donations from children**

**11 Blood transfusions not subject to div 2.3**

Nothing in this division prevents the removal in accordance with division 2.5 of blood from the body of a child.

**12 Reference to *parent* not to include guardian etc**

In this division, a reference to the *parent* of a child does not include a reference to the guardian of a child or to another person standing in place of a parent to the child.

**13 Removal for transplantation of regenerative tissue from body of child**

- (1) A person who is a parent of a child may give his or her written consent to the removal from the body of the child of specified regenerative tissue for the purpose of the transplantation of the tissue to the body of another member of the family of the child or to the body of a relative of the child.
- (2) A doctor may certify in writing—
  - (a) that the written consent of a person who is a parent of a child, the terms of which consent are set out in the certificate, was given in his or her presence; and
  - (b) that he or she explained to the person and to the child before the consent was given the nature and effect of the removal from the body of that child of the tissue specified in the consent and the nature of the transplantation of that tissue; and
  - (c) that he or she is satisfied that, at the time the consent was given, the child—
    - (i) understood the nature and effect of the removal of the tissue and the nature of the transplantation; and
    - (ii) was in agreement with the proposed removal and transplantation of tissue.

**14 Removal for transplantation of non-regenerative tissue from body of child**

- (1) A person who is a parent of a child may give his or her written consent to the removal from the body of the child, at any time after the end of 24 hours from the time when the consent is given, of specified non-regenerative tissue for the purpose of the transplantation of the tissue to the body of another member of the family of the child.

- (2) A consent given under subsection (1) shall specify the time when the consent is given.
- (3) A doctor may certify in writing—
  - (a) that the consents in writing of both persons who are the parents of a child, the terms of which consents are set out in the certificate, were given in his or her presence; and
  - (b) that, before the consents were given—
    - (i) he or she advised those persons and the child that a person who was a member of the family of the child was in danger of dying unless certain non-regenerative tissue was transplanted to the body of that person from the body of another person; and
    - (ii) he or she explained to those persons and the child the nature and effect of the removal from the body of the child of the tissue specified in the consent and the nature of the transplantation of that tissue; and
  - (c) that he or she is satisfied that, at the time the consent was given, the child—
    - (i) understood the nature and effect of the removal of the tissue and the nature of the transplantation; and
    - (ii) was in agreement with the proposed removal and transplantation of tissue.
- (4) If each of the parents of a child gives a written consent under subsection (1) and a doctor gives a certificate in accordance with subsection (3) in relation to those consents, the doctor who gives that certificate shall refer the matter to the committee appointed in accordance with subsection (5).
- (5) The Minister must appoint the following to be a committee for this section:
  - (a) a judge of the Supreme Court;

- (b) a doctor;
- (c) a social worker or psychologist.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

*Note 3* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (6) If only 1 parent of a child is available and that parent gives a written consent under subsection (1), a doctor who gives a certificate in relation to that consent that is restricted in all respects to that parent and the child but is otherwise in accordance with subsection (3) shall refer the matter to the committee appointed in accordance with subsection (5).
- (7) If a doctor, in accordance with this section, refers a matter to the committee appointed for this section, the committee may, if each of the members of the committee is of the opinion that it is desirable in all the circumstances of the case that the tissue referred to in the consent or consents, as the case may be, be removed from the body of the child for transplantation to the body of the other person referred to in the consent or consents to, authorise, in writing, the removal of that tissue for the purpose of transplantation to the body of that other person.

## **Division 2.4 Effect of consents and authorities**

### **15 Effect of consent under s 8**

Subject to section 19, a document that purports to be a consent given in accordance with section 8 is, if a certificate has been given in accordance with section 10 in relation to that consent, sufficient authority for a doctor, other than the doctor who gave the certificate,

to remove the regenerative tissue specified in the consent for the purpose or the use, as the case may be, specified in the consent.

**16 Effect of consent under s 9**

Subject to section 19, a document that purports to be a consent given in accordance with section 9 is, if a certificate has been given in accordance with section 10 in relation to that consent, sufficient authority for a doctor, other than the doctor who gave the certificate, to remove, at any time after the end of 24 hours from the time specified in the consent to be the time when the consent was given, the non-regenerative tissue specified in the consent for the purpose of the transplantation of the tissue to the body of another living person.

**16A Effect of consent by ACAT**

Subject to section 19, an order by the ACAT under the *Guardianship and Management of Property Act 1991*, section 70 consenting to the removal of specified non-regenerative tissue from a person for transplantation is sufficient authority for a doctor to remove, at any time after 24 hours after the time the order was made, the non-regenerative tissue specified in the order for the purpose of transplantation of the tissue to the body of another living person.

**17 Effect of consent under s 13**

Subject to section 19, a document that purports to be a consent given in accordance with section 13 (1) is, if a certificate has been given in accordance with section 13 (2) in relation to that consent, sufficient authority for a doctor, other than the doctor who gave the certificate, to remove the regenerative tissue specified in the consent for the purpose specified in the consent.

## **18 Effect of authority under s 14**

- (1) Subject to subsection (2), an authority given in accordance with section 14 by the committee established for that section is sufficient authority for a doctor, other than the doctor who gave a certificate in accordance with that section, to remove, at any time after the end of 24 hours from the time when the latest relevant consent under section 14 (1) was given, the non-regenerative tissue specified in the authority for the purpose of transplantation to the body of the other person referred to in the authority.
- (2) Subsection (1) does not apply in relation to a doctor—
  - (a) who has been informed—
    - (i) that a consent given under section 14 (1) that is relevant in relation to the authority has been revoked; or
    - (ii) that the child referred to in the consent is no longer in agreement with the removal and transplantation of the tissue specified in the authority; or
  - (b) who knows or has reasonable grounds for suspecting that the certificate given in accordance with section 14 that is relevant in relation to the authority contains a false statement.

## **19 When written consent not sufficient authority**

- (1) A document that purports to be a consent given in accordance with section 8, 9 or 13 (1) is not sufficient authority for a doctor to remove tissue if—
  - (a) the doctor has been informed that the consent has been revoked; or
  - (b) the doctor knows or has reasonable grounds for suspecting that a certificate given for section 10 or 13 (2), as the case may be, in relation to that document contains a false statement; or



- (c) for a document that purports to be a consent given in accordance with section 13 (1)—the doctor has been informed that the child is no longer in agreement with the removal and transplantation of the tissue.
- (2) A document that purports to be an order of the kind mentioned in section 16A is not sufficient authority for a doctor to remove tissue if the doctor has been informed that the order has been revoked.

## **Division 2.5                      Blood transfusions**

### **20                      Consents by people 16 years old or older to removal of blood**

A person, other than a child under 16 years old, who is of sound mind may consent to the removal of blood from his or her body—

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

### **21                      Consents to removal of blood from children under 16 years old**

The parent of a child under 16 years old may consent to the removal of blood from the body of the child for a purpose referred to in section 20 if—

- (a) a doctor advises that the removal is not likely to be prejudicial to the health of the child; and
- (b) the child agrees to the removal.

### **22                      Consent to be sufficient authority for removal of blood at certain places**

A consent duly given under section 20 or 21 is sufficient authority for the removal of blood from the body of the person who has given

the consent, or from the body of the child of the person who has given the consent, as the case requires—

- (a) at a hospital; or
- (b) at premises, or in a vehicle, used by the Australian Red Cross Society, or by another body approved by the Minister for this division, for the removal of blood from the bodies of persons.

### **23 Administration of blood transfusions to children without parental consent**

- (1) In this section:

*blood transfusion* means the transfusion of human blood or any of the constituents of human blood.

*child* means a person who has not turned 18 years old.

- (2) The operation of removing all or part of the blood of a person and replacing it with blood taken from another person shall, for this section, be deemed to be a blood transfusion.
- (3) Subject to subsection (4), a doctor may administer a blood transfusion to a child without the consent of a parent of the child or a person having authority to consent to the administration of the transfusion if—
- (a) that doctor and at least 1 other doctor are of the opinion that the child is in danger of dying and that the administration of a blood transfusion to the child is the best means of preventing the death of the child; and
  - (b) the firstmentioned doctor has satisfied himself or herself that the blood to be transfused is compatible with the blood of the child.
- (4) A doctor is not entitled to administer a blood transfusion to a child under subsection (3) unless—

- (a) a parent of the child, or a person having authority to consent to the administration of the transfusion, on being asked to consent to the administration of the transfusion, has failed to give his or her consent; or
  - (b) the doctor is of the opinion that, in the circumstances, it is not practicable to delay the administration of the transfusion until the consent of a parent of the child or a person having authority to consent to the administration of the transfusion can be obtained.
- (5) If a blood transfusion is administered to a child in accordance with this section, the transfusion shall, for all purposes, be deemed to have been administered with the consent of a parent of the child or a person having authority to consent to the administration of the transfusion.
- (6) Nothing in this section relieves a doctor from liability in relation to the administration of a blood transfusion to a child, being a liability to which he or she would have been subject if the transfusion had been administered with the consent of a parent of the child or a person having authority to consent to the administration of the transfusion.

## **Division 2.6                      Revocation of consent or agreement**

### **24                      Revocation of consent**

- (1) A reference in this section, in relation to a consent given for this Act, to the *donor* is—
- (a) if the consent is given in relation to a child—a reference to the child; and
  - (b) in any other case—a reference to the person who gave the consent.

- (2) A person who gives a consent for this Act may at any time afterwards revoke that consent by indicating, either orally or in writing—
- (a) if the donor, in relation to that consent, is a patient in a hospital—
    - (i) to a designated officer for that hospital; or
    - (ii) to a doctor who is attending the donor in a professional capacity; or
    - (iii) to a nurse or enrolled nurse employed at that hospital; and
  - (b) if the donor is not a patient in a hospital—to a doctor who is attending the donor in a professional capacity;
- that the consent is revoked.
- (3) If—
- (a) the donor is a patient in a hospital; and
  - (b) the person who gave the consent for this Act indicates to a person referred to in subsection (2) (a) (ii) or (iii) that the consent is revoked;
- that person shall inform a designated officer for that hospital forthwith of the revocation of the consent.
- (4) If a person revokes his or her consent in accordance with subsection (2)—
- (a) if the donor is a patient in a hospital at the time of the revocation—the designated officer for the hospital to whom the revocation is communicated in accordance with subsection (2) or (3); or
  - (b) if the donor is not a patient in a hospital at that time—the doctor to whom the revocation is communicated;

shall, if it appears to him or her, after making the inquiries (if any) that are reasonable in the circumstances, that a doctor is proposing to rely on the consent in connection with the removal of tissue from the body of the donor, inform that doctor forthwith that the consent has been revoked.

- (5) If a consent is revoked, a person who has in his or her possession the instrument of consent shall, on being informed by a designated officer for a hospital or by the doctor to whom the revocation is communicated that the consent has been revoked, surrender—
- (a) that instrument; and
  - (b) if a certificate given in accordance with section 10, 13 (2) or 14 (3) is in his or her possession, being a certificate relating to the consent—that certificate;

to the person who gave the consent.

## **25 Child no longer in agreement with removal and transplantation**

- (1) If a doctor has given a certificate in accordance with section 13 (2) or 14 (3) and the child in relation to whom the certificate has been given informs—
- (a) if the child is a patient in a hospital—
    - (i) a designated officer for that hospital; or
    - (ii) a doctor who is attending the child in a professional capacity; or
    - (iii) a nurse or enrolled nurse employed at that hospital; and
  - (b) if the child is not a patient in a hospital—a doctor who is attending the child in a professional capacity;

that he or she is no longer in agreement with the proposed removal and transplantation of tissue, subsections (2) to (4) have effect.

- (2) If—
- (a) the child is a patient in a hospital; and
  - (b) the person whom he or she so informs is a person referred to in subsection (1) (a) (ii) or (iii);
- that person shall inform a designated officer for that hospital forthwith that the child is no longer in agreement with the proposed removal and transplantation of tissue.
- (3) The designated officer for the hospital or, if the child is not a patient in a hospital, the doctor who is attending the child in a professional capacity shall, if it appears to him or her, after making the inquiries (if any) that are reasonable in the circumstances, that a doctor is proposing to remove the tissue from the body of the child, inform that doctor forthwith that the child is no longer in agreement with the proposed removal and transplantation of tissue.
- (4) A person who is informed that the child is no longer in agreement with the proposed removal and transplantation of tissue shall, if he or she has in his or her possession the instrument of consent that relates to the removal and transplantation of the tissue, surrender—
- (a) that instrument; and
  - (b) if the certificate given in accordance with subsection 13 (2) or 14 (3) is in his or her possession—that certificate;
- to the person who gave the consent.

## Part 3 Donations of tissue after death

### 27 Authority to remove tissue if body of deceased at hospital

- (1) Subject to this part, if it appears to a designated officer for a hospital, after making the inquiries that are reasonable in the circumstances, that a deceased person who has died in the hospital or whose dead body has been brought into the hospital—
  - (a) had, during his or her lifetime, expressed the wish for, or consented to, the removal after his or her death of tissue from his or her body—
    - (i) for the purpose of the transplantation of the tissue to the body of a living person; or
    - (ii) for the purpose of the use of the tissue for other therapeutic purposes or for medical or scientific purposes; and
  - (b) had not withdrawn the wish or revoked the consent;

the designated officer may, in writing, authorise the removal of tissue from the body of the deceased person for that purpose.
- (2) Subject to this part, if it appears to a designated officer for a hospital, after making the inquiries that are reasonable in the circumstances in relation to a deceased person who has died in the hospital or whose dead body has been brought into the hospital, that—
  - (a) the designated officer is not authorised by subsection (1) to give an authority in relation to that person; and
  - (b) the deceased person had not, during his or her lifetime, expressed an objection to the removal of tissue from his or her body; and

- (c) the senior available next of kin of the deceased person has not objected to the removal of tissue from the body of the deceased person;

the designated officer may, in writing, authorise the removal of tissue from the body of the deceased person for any of the purposes referred to in subsection (1) (a).

- (3) If a designated officer for a hospital, after making the inquiries that are reasonable in the circumstances, is unable to ascertain the existence or whereabouts of the next of kin of the deceased person, subsection (2) applies as if paragraph (c) were omitted.
- (4) The senior available next of kin of a person may make it known to a designated officer at any time when the person is unconscious before death that he or she has no objection to the removal, after the death of the person, of tissue from the body of the person for a purpose referred to in subsection (1), but the designated officer shall not act on such an indication if the person recovers consciousness.
- (5) If there are 2 or more persons having a description referred to in a subparagraph of the dictionary, definition of *senior available next of kin*, paragraph (a) or (b), an objection by any 1 of those persons has effect for this section notwithstanding any indication to the contrary by the other or any other of those persons.

## **28 Authority to remove tissue if body of deceased not at hospital**

- (1) Subject to this part, if the body of a deceased person is at a place other than a hospital, the senior available next of kin of the deceased person may, in writing, authorise the removal of tissue from the body of the deceased person—
  - (a) for the purpose of the transplantation of the tissue to the body of a living person; or
  - (b) for the purpose of the use of the tissue for other therapeutic purposes or for medical or scientific purposes.



- (2) If it appears to the senior available next of kin of the deceased person, after making the inquiries (if any) that are reasonable in the circumstances, that—
- (a) the deceased person had, during his or her lifetime, expressed an objection to the removal of tissue from his or her body and had not withdrawn that objection; or
  - (b) another next of kin of the same or a higher order of the classes in the dictionary, definition of *senior available next of kin*, paragraph (a) or (b) has an objection to the removal of tissue from the body of the deceased person;

the senior available next of kin shall not, under subsection (1), authorise the removal of tissue from the body of the deceased person.

- (3) If a deceased person, during his or her lifetime, expressed the wish for, or consented to, the removal after his or her death of tissue from his or her body for a purpose referred to in subsection (1) and the wish had not been withdrawn or the consent revoked, the removal of tissue from the body of the deceased person in accordance with the wish or consent is, by force of this subsection, authorised.

## 29 Consent by coroner

- (1) This section applies to a deceased person—
- (a) who has died in a way or in circumstances referred to in the *Coroners Act 1997*, section 13 (1) (other than paragraph (f)); or
  - (b) in relation to whom a doctor has not given a certificate about the cause of death; or
  - (c) in relation to whose death a coroner is required by the Attorney-General to hold an inquest.
- (2) A designated officer for a hospital or a senior available next of kin, as the case may be, shall not authorise the removal of tissue from

the body of a deceased person to whom this section applies unless the coroner has given his or her consent to the removal of the tissue.

- (3) Section 28 (3) does not apply in relation to a deceased person to whom this section applies unless the coroner has given his or her consent to the removal of tissue from the body of the deceased person.
- (4) The coroner may give a direction that his or her consent to the removal of tissue from the body of the person is not required and, in that event, subsections (2) and (3) do not apply to or in relation to the removal of tissue from the body of the person.
- (5) A consent or direction by the coroner under this section may be expressed to be subject to the conditions that are specified in the consent or the direction.
- (6) A consent or direction may be given orally by the coroner, and if so given, shall be confirmed in writing.

### **30 Certificate of specialist etc required in certain situations**

- (1) If—
  - (a) a person has died within the meaning of section 45; and
  - (b) at the time when he or she died or at any time afterwards his or her respiration and the circulation of his or her blood were being maintained by artificial means;

a designated officer for a hospital shall not give an authority under this part in relation to that deceased person unless 2 doctors, each of whom has been for not less than 5 years a doctor and 1 of whom is a specialist neurologist or neurosurgeon or has the other qualifications that are prescribed, have each certified in writing—

- (c) that he or she carried out appropriate tests on or in relation to the person while the respiration and the circulation of the blood of that person were being maintained by artificial means; and

- (d) that, in his or her opinion, at the time of the tests, irreversible cessation of all function of the brain of the person had already occurred.

Maximum penalty: 50 penalty units.

- (2) For subsection (1), any period during which a person who is a doctor practised as a doctor, however described, under the law in force in a place outside Australia shall be taken into account in calculating the period of 5 years referred to in that subsection.

### **31 Effect of authority under pt 3**

- (1) An authority under this part is sufficient authority for a doctor other than—

- (a) a doctor referred to in section 30 (1); and  
(b) if section 27 applies—the designated officer for the hospital who gave the authority;

to remove tissue from the body of the deceased person referred to in the authority for the purpose referred to in the authority.

- (2) Without limiting subsection (1), an authority under this part that authorises the removal of tissue for the purpose of corneal transplantation (whether or not it authorises the removal of tissue for any other purpose) is sufficient authority for a person other than a doctor to remove tissue from the body of the deceased person referred to in the authority for the purpose of corneal transplantation if the person—

- (a) is authorised in writing by the chief health officer to remove tissue for the purpose of corneal transplantation; and  
(b) is not the person by whom the firstmentioned authority was given.

**Part 3** Donations of tissue after death

Section 31

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- (3) A contravention by a designated officer of section 30 (1) in relation to the giving of an authority does not affect the validity of the authority.

## Part 4 Post-mortem examinations

### 32 Authority for post-mortem examination

- (1) Subject to section 34, if it appears to a designated officer for a hospital, after making the inquiries that are reasonable in the circumstances, that a deceased person who has died in the hospital or whose dead body has been brought into the hospital—
- (a) had, during his or her lifetime, expressed the wish for, or consented to, a post-mortem examination of his or her body for the purpose of investigating the cause of his or her death; and
  - (b) had not withdrawn the wish or revoked the consent;

the designated officer may, in writing, authorise a post-mortem examination of the body of the deceased person for that purpose.

- (2) Subject to section 34, if it appears to a designated officer for a hospital, after making the inquiries that are reasonable in the circumstances in relation to a deceased person who has died in the hospital or whose dead body has been brought into the hospital, that—
- (a) the designated officer is not authorised by subsection (1) to give an authority in relation to that person; and
  - (b) the deceased person had not, during his or her lifetime, expressed an objection to the post-mortem examination of his or her body; and
  - (c) the senior available next of kin of the deceased person has not objected to a post-mortem examination of the body of the deceased person;

the designated officer may, in writing, authorise a post-mortem examination of the body of the deceased person for the purpose of investigating the cause of the death of that person.

- (3) If a designated officer for a hospital, after making the inquiries that are reasonable in the circumstances, is unable to ascertain the existence or whereabouts of the next of kin of the deceased person, subsection (2) applies as if paragraph (c) of that subsection were omitted.
- (4) The senior available next of kin of a person may make it known to a designated officer at any time when the person is unconscious before death that he or she has no objection to a post-mortem examination of the body of the person, but the designated officer shall not act on such an indication if the person recovers consciousness.
- (5) If there are 2 or more persons having a description referred to in the dictionary, definition of *senior available next of kin*, paragraph (a) or (b), an objection by any 1 of those persons has effect for this section notwithstanding any indication to the contrary by the other or any other of those persons.

**33 Authority for post-mortem examination if body of deceased not at hospital**

- (1) Subject to this part, if the body of a deceased person is at a place other than a hospital, the senior available next of kin of the deceased person may, in writing, authorise a post-mortem examination of the body of the deceased person for the purpose of investigating the cause of the death of that person.
- (2) If it appears to the senior available next of kin of the deceased person, after making the inquiries (if any) that are reasonable in the circumstances, that—
  - (a) the deceased person had, during his or her lifetime, expressed an objection to a post-mortem examination of his or her body and had not withdrawn that objection; or
  - (b) another next of kin of the same or a higher order of the classes in the dictionary, definition of *senior available next of kin*,

paragraph (a) or (b) has an objection to the post-mortem examination of the body of the deceased person;

the senior available next of kin shall not, under subsection (1), authorise the post-mortem examination of the body of the deceased person.

- (3) If a deceased person, during his or her lifetime, expressed the wish for, or consented to, a post-mortem examination of his or her body and the wish had not been withdrawn or the consent revoked, a post-mortem examination of the body of the deceased person in accordance with the wish or consent is, by force of this subsection, authorised.

#### **34 Consent by coroner**

- (1) This section applies to a deceased person—
- (a) who had died in a way or in circumstances referred to in the *Coroners Act 1997*, section 13 (1) (other than paragraph (f)); or
  - (b) in relation to whom a doctor has not given a certificate about the cause of death; or
  - (c) in relation to whose death a coroner is required by the Attorney-General to hold an inquest.
- (2) The designated officer for a hospital or a senior available next of kin, as the case may be, shall not authorise a post-mortem examination of the body of a deceased person to whom this section applies unless the coroner has given his or her consent to the examination.
- (3) Section 33 (3) does not apply in relation to a deceased person to whom this section applies unless the coroner has given his or her consent to the post-mortem examination of the body of the deceased person.
- (4) The coroner may give a direction that his or her consent to the removal of tissue from the body of the person is not required and, in

that event, subsections (2) and (3) do not apply to or in relation to the removal of tissue from the body of the person.

- (5) A consent or direction by the coroner under this section may be expressed to be subject to the conditions that are specified in the consent or the direction.
- (6) A consent or direction may be given orally by the coroner and, if so given, shall be confirmed in writing.

**35 Effect of authority under pt 4**

An authority under this part is sufficient authority for a doctor (other than, if section 32 applies, the designated officer for the hospital who gave the authority)—

- (a) to conduct the examination of the body of the deceased person that is necessary for the purpose of investigating the cause of the death of the person; and
- (b) to remove from the body of the person the tissue that is necessary for the purpose of the post-mortem examination.



## Part 5 Donations for anatomical purposes

### 36 Meaning of *school of anatomy*—pt 5

In this part:

*school of anatomy* means—

- (a) a school of anatomy established under a law of the Territory or Commonwealth; or
- (b) a school of anatomy the conduct of which is authorised under this Act; or
- (c) a place that is, under section 42 (4), taken to be a school of anatomy for this Act; or
- (d) a school of anatomy that is licensed under a law of a State.

### 37 Authority for anatomy if body of deceased at hospital

- (1) Subject to section 39, if it appears to a designated officer for a hospital, after making the inquiries that are reasonable in the circumstances in relation to a deceased person who has died in the hospital or whose dead body has been brought into the hospital, that—
  - (a) the deceased person had not, during his or her lifetime, expressed an objection to the retention after his or her death of his or her body—
    - (i) for the purpose of anatomical examination; or
    - (ii) for the purpose of the use of his or her body for the study and teaching of the anatomy of the human body; and
  - (b) the senior available next of kin of the deceased person has no objection to the retention of the body of the deceased person for a purpose referred to in paragraph (a);

the designated officer may, in writing, authorise the retention and use of the body of the deceased person at a school of anatomy for any of the purposes referred to in paragraph (a).

- (2) If a designated officer for a hospital, after making the inquiries that are reasonable in the circumstances, is unable to ascertain the existence or whereabouts of the next of kin of the deceased person, subsection (1) applies as if paragraph (b) were omitted.
- (3) The senior available next of kin of a person may make it known to a designated officer at any time when the person is unconscious before death that he or she has no objection to the retention after the death of the person of the body of the person for a purpose referred to in subsection (1), but the designated officer shall not act on such an indication if the person recovers consciousness.
- (4) If there are 2 or more persons having a description referred to in a subparagraph of the dictionary, definition of *senior available next of kin*, paragraph (a) or (b), an objection by any 1 of those persons has effect for this section notwithstanding any indication to the contrary by the other or any other of those persons.

### **38 Authority for anatomy if body of deceased not at hospital**

- (1) Subject to this part, if the body of a deceased person is at a place other than a hospital, the senior available next of kin of the deceased person may, in writing, authorise the retention and use of the body of the deceased person at a school of anatomy—
  - (a) for the purpose of anatomical examination; or
  - (b) for the purpose of the use of the body for the study and teaching of the anatomy of the human body.
- (2) If it appears to the senior available next of kin of the deceased person, after making the inquiries (if any) that are reasonable in the circumstances, that—

- (a) the deceased person had, during his or her lifetime, expressed an objection to the retention of his or her body for a purpose referred to in subsection (1) and had not withdrawn that objection; or
- (b) another next of kin of the same or a higher order of the classes in the dictionary, the definition of *senior available next of kin*, paragraph (a) or (b) has an objection to the retention of the body of the deceased person for that purpose;

the senior available next of kin shall not, under subsection (1), authorise the retention and use of the body of the deceased person for that purpose at a school of anatomy.

### **39 Provisions applicable if deceased person consented to retention of his or her body for anatomy**

If a deceased person, during his or her lifetime, expressed the wish for, or consented to, the use of his or her body after his or her death for a purpose referred to in section 37 (1) and the wish had not been withdrawn or the consent revoked, the removal of the body of the deceased person to a school of anatomy and the use of the body at a school of anatomy for a purpose specified in section 37 (1) is authorised.

### **40 Consent by coroner**

- (1) This section applies to a deceased person—
  - (a) who has died in a way or in circumstances referred to in the *Coroners Act 1997*, section 13 (1) (other than paragraph (f)); or
  - (b) in relation to whom a doctor has not given a certificate about the cause of death; or
  - (c) in relation to whose death a coroner is required by the Attorney-General to hold an inquest.

- (2) The designated officer for a hospital or a senior available next of kin shall not, in relation to the body of a deceased person to whom this section applies, give an authority under section 37 (1) or 38 (1), as the case may be, except with the consent of the coroner.
- (3) Section 39 does not apply in relation to a deceased person to whom this section applies unless the coroner has given his or her permission for the body of the deceased person to be dealt with in accordance with that section.
- (4) The coroner may give a direction that his or her consent to the removal of tissue from the body of the person is not required and, in that event, subsections (2) and (3) do not apply to or in relation to the removal of tissue from the body of the person.
- (5) A consent or direction by the coroner under this section may be expressed to be subject to the conditions that are specified in the consent or the direction.
- (6) A consent or direction may be given orally by the coroner, and if so given, shall be confirmed in writing.

**41 Effect of authority under pt 5**

An authority under this part is, for the law of the Territory, sufficient authority for the removal of the body of the deceased person to a school of anatomy and for its retention and use at a school of anatomy for a purpose specified in section 37 (1).

## Part 6 Schools of anatomy

### 42 Schools of anatomy

- (1) The Minister may, in writing, authorise the conduct within a specified educational institution of a school of anatomy for the teaching and study of anatomy and for the carrying on of the practice of anatomy.
- (2) An authorisation under subsection (1) may provide that a school of anatomy is authorised only for the teaching and study of the anatomy of a specified part of the human body.
- (3) The Minister may authorise the carrying out of anatomical examinations and the teaching and study of the anatomy of the whole or a specified part of the human body at a place, not other than a place within an educational institution, specified in the authorisation.
- (4) A place specified in an authorisation under subsection (3) is taken to be a school of anatomy for this Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

- (5) An authorisation under this section is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

### 43 Regulations for the control etc of schools of anatomy

- (1) The regulations may make provision in relation to—
  - (a) how bodies may be transported to a school of anatomy; and
  - (b) the conditions subject to which anatomical examinations and the teaching and study of anatomy and the practice of anatomy may be carried out; and

- (c) the providing of returns and other information by the person in charge of a school of anatomy; and
  - (d) the precautions to be taken in regard to the receipt, custody and subsequent internment or cremation of bodies; and
  - (e) the inspection of schools of anatomy; and
  - (f) the regulation and control of schools of anatomy.
- (2) Regulations making provision in relation to a matter mentioned in subsection (1) (b), (c), (e) or (f) apply only to a school of anatomy for which an authorisation under section 42 is in force.

## Part 7 Prohibition of trading in tissue

### 44 Certain contracts not to be entered into

- (1) Subject to this section, a person shall not enter into a contract or arrangement under which a person agrees, for valuable consideration, whether given or to be given to himself or herself or to another person—
  - (a) to the sale or supply of tissue from his or her body or from the body of another person, whether before or after his or her death or the death of the other person, as the case may be; or
  - (b) to the post-mortem examination or anatomical examination of his or her body after his or her death or of the body of another person after the death of the other person.

Maximum penalty: 50 penalty units.

- (2) Subsection (1) does not apply to or in relation to the sale or supply of tissue other than blood or any of its constituents if the tissue has been subjected to processing or treatment and the sale or supply is made for use, in accordance with the directions of a doctor, for therapeutic or scientific purposes.
- (3) Subsection (1) does not apply to or in relation to a contract or arrangement providing only for the reimbursement of any expenses necessarily incurred by a person in relation to the removal of tissue in accordance with this Act.
- (4) If he or she considers it desirable by reason of special circumstances so to do, the Minister may, in writing, approve the entering into of a contract or arrangement that would, apart from the approval, be void under subsection (5) and nothing in subsection (1) or (5) applies to and in relation to a contract or agreement entered into in accordance with an approval under this subsection.
- (5) A contract or arrangement entered into in contravention of this section is void.

## **Part 8 Definition of death**

### **45 When death occurs**

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

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



## Part 9                      Miscellaneous

### 46                      **Act does not prevent specified removals of tissue etc**

- (1) Nothing in this Act applies to or 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 doctor with the consent, express or implied, given by or on behalf of the person or in circumstances necessary for the preservation of the life of the person; or
  - (b) the use of tissues 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 internment or cremation.
- (2) In subsection (1):
- tissue*—see section 6.

### 47                      **Exclusion of liability of person acting under consent or authority**

- (1) Subject to subsection (2), if—
- (a) a person carries out a procedure; and
  - (b) a consent or authority given under this Act is sufficient authority under this Act for that person to carry out that procedure;
- that person is not liable to any other person in relation to anything done or omitted to be done by that firstmentioned person in the carrying out of that procedure.

- (2) Nothing in this section relieves a person from liability for negligence in relation to anything done or omitted to be done by him or her in the carrying out of a procedure.

#### **48 Offences**

- (1) A person shall not remove tissue from the body of a person, whether living or dead, except in accordance with a consent or authority that is, under this Act, sufficient authority for the removal of the tissue by that person.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person shall not conduct a post-mortem examination of the body of a deceased person except in accordance with an authority that is, under this Act, sufficient authority for that person to conduct the post-mortem examination.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) A person shall not—

- (a) remove the body of a deceased person to a school of anatomy; or
- (b) use the body of a deceased person for a purpose specified in section 37 (1);

except in accordance with an authority that is, under this Act, sufficient authority for such removal or use of the body for that purpose.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (4) A person who—

- (a) gives an authority under this Act without having made the inquiries that he or she is required by this Act to make; or

(b) contravenes a provision of division 2.6;  
commits an offence.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (5) Nothing in subsection (1) or (2) applies to or in relation to—
- (a) anything done under an order by the coroner under the *Coroners Act 1997*; or
  - (b) any other act authorised by law.

#### **49 Disclosure of information**

- (1) Subject to this section, a person to whom this section applies shall not disclose or give to any other person any information or document by which the identity of a person or a deceased person—
- (a) from whose body tissue other than blood has been removed for the purpose of transplantation or for the purpose of the use of the tissue for other therapeutic purposes or for medical or scientific purposes; or
  - (b) in relation to whom or in relation to whose body a consent, other than a consent under section 20, or authority has been given under this Act; or
  - (c) into whose body tissue other than blood has been, is being, or may be, transplanted;

may become publicly known.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) Subject to this section, a person to whom this section applies shall not disclose or give to any other person any information or document by which the identity of a child from whose body blood

has been removed for a purpose referred to in section 20 may become publicly known.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) This section applies—
- (a) if a consent has been given in accordance with this Act—to a doctor who gave a certificate in relation to the consent; and
  - (b) if an authority has been given in accordance with this Act by a designated officer for a hospital—to the designated officer; and
  - (c) if tissue has been removed from the body of a person or a deceased person—the doctor or the person authorised by the chief health officer under section 31 (2) who removed the tissue and, if the tissue was removed at a hospital, each person who was employed at the hospital at the time of the removal of the tissue or has since been employed at the hospital; and
  - (d) if tissue has been transplanted into the body of a person—to the doctor who performed the transplantation and, if the tissue was transplanted at a hospital, each person who was employed at the hospital at the time of the transplantation or has since been employed at the hospital; and
  - (e) if it is proposed that tissue will be transplanted into the body of a person—to the doctor who is to perform the transplantation and, if the tissue is to be transplanted at a hospital, each person who is employed at the hospital or who becomes so employed.
- (4) Subsections (1) and (2) do not apply to or in relation to information disclosed—
- (a) under an order of a court or when otherwise required by law; or
  - (b) for the purposes of hospital administration or genuine 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.

## **51 Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) A regulation may prescribe—
- (a) offences for contraventions of a regulation; and
  - (b) maximum penalties of not more than 10 penalty units for offences against a regulation.

## Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- chief health officer
- doctor
- enrolled nurse
- judge
- nurse
- penalty unit (see s 133)
- person
- Supreme Court.

***child*** means a person who—

- (a) has not turned 18 years old; and
- (b) is not in a domestic partnership.

*Note* For the meaning of ***domestic partnership***, see Legislation Act, s 169.

***coroner*** means a person who is a coroner for the ACT.

***designated officer***, in relation to a hospital, means a person appointed under section 5 to be a designated officer for that hospital.

***next of kin*** means—

- (a) for a dead child—someone mentioned in the definition of ***senior available next of kin***, paragraph (a) (i), (ii) or (iii); or
- (b) for any other dead person—someone mentioned in that definition, paragraph (b) (i), (ii), (iii), (iv) or (v).

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

***parent***, for division 2.3 (Donations from children)—see section 12.

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**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.

**school of anatomy**, for part 5 (Donations for anatomical purposes)—see section 36.

**senior available next of kin** means—

- (a) for a dead child—
  - (i) if a parent of the child is available—the parent; or
  - (ii) if a parent of the child is not available—an adult brother or sister of the child who is available; or
  - (iii) if no-one mentioned in subparagraph (i) or (ii) is available—someone who was the child’s guardian immediately before the child’s death and who is available; and
- (b) for any other dead person—
  - (i) if the person was, immediately before his or her death, party to a domestic partnership and the person who was then his or her domestic partner is available—the domestic partner; or
  - (ii) if the person was, immediately before his or her death, party to a domestic partnership but the person who was then his or her domestic partner is not available— an adult son or daughter of the dead person who is available; or
  - (iii) if the person was not, immediately before his or her death, party to a domestic partnership—an adult son or daughter of the dead person who is available; or
  - (iv) if no-one mentioned in subparagraph (i), (ii) or (iii) is available but a parent of the dead person is available—the parent; or

- (v) if no-one mentioned in subparagraph (i), (ii), (iii) or (iv) is available— an adult brother or sister of the dead person who is available.

*Note* For the meaning of *domestic partner* and *domestic partnership*, see Legislation Act, s 169.

***tissue***—

- (a) for this Act generally—includes an organ, or part, of a human body or a substance extracted from, or from a part of, the human body; and
- (b) for part 2 (Donations of tissue by living persons)—see section 6.

***transplantation*** of tissue—see section 4.



## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

This Act was originally a Commonwealth ordinance—the *Transplantation and Anatomy Ordinance 1978* No 44 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

#### Legislation before becoming Territory enactment

##### **Transplantation and Anatomy Act 1978 No 44**

notified 19 December 1978

commenced 29 December 1978 (s 2 and Cwlth Gaz 1978 No S290)

as amended by

##### **Community and Health Service (Consequential Provisions) Ordinance 1988 No 29**

notified 30 June 1988

commenced 2 July 1988

##### **Nurses (Consequential Amendments) Ordinance 1988 No 62**

notified 7 September 1988

commenced 5 December 1988 (Cwlth Gaz 1988 No S369)

##### **Self-Government (Consequential Amendments) Ordinance 1989 No 38 sch 1**

notified 10 May 1989 (Cwlth Gaz 1989 No S160)

s 1, s 2 commenced 10 May 1989 (s 2 (1))

sch 1 commenced 11 May 1989 (s 2 (2) and Cwlth Gaz 1989 No S164)

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**Legislation after becoming Territory enactment****Health Services (Consequential Provisions) Act 1990 No 63 sch 1**

notified 28 December 1990 (Gaz 1990 No S102)  
s 1, s 2 commenced 28 December 1990 (s 2 (1))  
sch 1 commenced 31 January 1991 (s 2 (2) and Gaz 1991 No S4)

**Guardianship and Management of Property (Consequential Provisions) Act 1991 No 63 pt 4**

notified 31 October 1991 (Gaz 1991 No S119)  
s 1, s 2 commenced 31 October 1991 (s 2 (1))  
pt 4 commenced 7 January 1992 (s 2 (2) and Gaz 1991 No S147)

**Health (Consequential Provisions) Act 1993 No 14 sch 1**

notified 1 March 1993 (Gaz 1993 No S23)  
commenced 1 March 1993 (s 2)

**Coroners (Consequential Provisions) Act 1997 No 58 sch 2**

notified 9 October 1997 (Gaz 1997 No S300)  
commenced 9 October 1997 (s 2)

**Statute Law Revision (Penalties) Act 1998 No 54 sch**

notified 27 November 1998 (Gaz 1998 No S207)  
s 1, s 2 commenced 27 November 1998 (s 2 (1))  
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

**Transplantation and Anatomy (Amendment) Act 1999 No 6**

notified 1 March 1999 (Gaz 1999 No S8)  
commenced 1 March 1999 (s 2)

**Transplantation and Anatomy Amendment Act 2000 No 45**

notified 28 September 2000 (Gaz 2000 No 39)  
commenced 28 September 2000 (s 2)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 391**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 391 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

## Endnotes

3 Legislation history

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**Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 1.7**

notified 5 September 2001 (Gaz 2001 No S65)  
commenced 5 September 2001 (s 2 (1))

**Legislation (Gay, Lesbian and Transgender) Amendment Act 2003  
A2003-14 sch 1 pt 1.33**

notified LR 27 March 2003  
s 1, s 2 commenced 27 March 2003 (LA s 75 (1))  
pt 1.33 commenced 28 March 2003 (s 2)

**Sexuality Discrimination Legislation Amendment Act 2004 A2004-2  
sch 1 pt 1.16**

notified LR 18 February 2004  
s 1, s 2 commenced 18 February 2004 (LA s 75 (1))  
sch 1 pt 1.16 commenced 22 March 2004 (s 2 and CN2004-4)

**Criminal Code (Theft, Fraud, Bribery and Related Offences)  
Amendment Act 2004 A2004-15 sch 2 pt 2.92**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 2 pt 2.92 commenced 9 April 2004 (s 2 (1))

**Health Professionals Legislation Amendment Act 2004 A2004-39  
sch 6 pt 6.10**

notified LR 8 July 2004  
s 1, s 2 commenced 8 July 2004 (LA s 75 (1))  
sch 6 pt 6.10 commenced 17 January 2006 (s 2 and see Health  
Professionals Act 2004 A2004-38, s 2 (as am by A2005-28 amdt 1.1)  
and CN2006-2)

**Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.105**

notified LR 22 March 2007  
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))  
sch 3 pt 3.105 commenced 30 May 2007 (s 2 (2) and see Powers of  
Attorney Act 2006 A2006-50, s 2 and LA s 79)

**ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 A2008-36 sch 1 pt 1.51**

notified LR 4 September 2008  
 s 1, s 2 commenced 4 September 2008 (LA s 75 (1))  
 sch 1 pt 1.51 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

**Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.70**

notified LR 1 September 2009  
 s 1, s 2 commenced 1 September 2009 (LA s 75 (1))  
 sch 3 pt 3.70 commenced 22 September 2009 (s 2)

**Health Practitioner Regulation National Law (ACT) Act 2010 A2010-10 sch 2 pt 2.19**

notified LR 31 March 2010  
 s 1, s 2 commenced 31 March 2010 (LA s 75 (1))  
 sch 2 pt 2.19 commenced 1 July 2010 (s 2 (1) (a))

## 4 Amendment history

### Dictionary

s 2 om R4 LRA  
 ins A2007-3 amdt 3.522

### Notes

s 3 om R4 LRA  
 ins A2007-3 amdt 3.522

### Meaning of *transplantation*

s 4 am 1988 No 29; 1988 No 62  
 defs reloc to dict A2007-3 amdt 3.521  
 sub A2007-3 amdt 3.522  
 def **board** ins 1990 No 63 sch 1  
 om 1993 No 14 sch 1  
 def **service** om 1990 No 63 sch 1

### Designated officers

s 5 am 1988 No 29; 1990 No 63 sch 1; 1993 No 14 sch 1;  
 A2009-20 amdt 3.201, amdt 3.202; A2010-10 amdt 2.118

### Exclusion of certain tissue

div 2.1 hdg (prev pt 2 div 1 hdg) renum R5 LA

### Donations by adults

div 2.2 hdg (prev pt 2 div 2 hdg) renum R5 LA

## Endnotes

4 Amendment history

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### **Doctor may give certificate in relation to consent**

s 10 hdg am A2010-10 amdt 2.118  
s 10 am A2010-10 amdt 2.118

### **Donations from children**

div 2.3 hdg (prev pt 2 div 3 hdg) renum R5 LA

### **Removal for transplantation of regenerative tissue from body of child**

s 13 am A2010-10 amdt 2.118

### **Removal for transplantation of non-regenerative tissue from body of child**

s 14 am A2009-20 amdt 3.203; A2010-10 amdt 2.118

### **Effect of consents and authorities**

div 2.4 hdg (prev pt 2 div 4 hdg) renum R5 LA

### **Effect of consent under s 8**

s 15 am A2010-10 amdt 2.118

### **Effect of consent under s 9**

s 16 am A2010-10 amdt 2.118

### **Effect of consent by ACAT**

s 16A hdg sub A2008-36 amdt 1.642  
s 16A ins 1991 No 63  
am A2008-36 amdt 1.643; A2010-10 amdt 2.118

### **Effect of consent under s 13**

s 17 am A2010-10 amdt 2.118

### **Effect of authority under s 14**

s 18 am A2010-10 amdt 2.118

### **When written consent not sufficient authority**

s 19 am 1991 No 63; A2010-10 amdt 2.118

### **Blood**

div 2.5 hdg (prev pt 2 div 5 hdg) renum R5 LA

### **Consents by people 16 years old or older to removal of blood**

s 20 hdg sub 2000 No 45 s 4  
s 20 am 2000 No 45 s 4

### **Consents to removal of blood from children under 16 years old**

s 21 hdg sub 2000 No 45 s 5  
s 21 am 2000 No 45 s 5; A2010-10 amdt 2.118

### **Administration of blood transfusions to children without parental consent**

s 23 am A2010-10 amdt 2.118

### **Revocation of consent or agreement**

div 2.6 hdg (prev pt 2 div 6 hdg) renum R5 LA

**Revocation of consent**

s 24 am 1988 No 62; A2010-10 amdt 2.114, amdt 2.118

**Child no longer in agreement with removal and transplantation**

s 25 am 1988 No 62; A2010-10 amdt 2.115, amdt 2.118

**De facto spouses**

s 26 om A2003-14 amdt 1.105

**Authority to remove tissue if body of deceased at hospital**

s 27 am A2007-3 amdt 3.525

**Authority to remove tissue if body of deceased not at hospital**

s 28 am A2007-3 amdt 3.525

**Consent by coroner**

s 29 am 1989 No 38 sch 1; 1997 No 58 sch 2; A2010-10 amdt 2.118

**Certificate of specialist etc required in certain situations**

s 30 am 1998 No 54 sch; 2001 No 56 amdt 1.79, amdt 1.80; A2010-10 amdt 2.118

**Effect of authority under pt 3**

s 31 am 1999 No 6; ss renum R5 LA; A2007-3 amdt 3.523; A2010-10 amdt 2.118

**Authority for post-mortem examination**

s 32 am A2007-3 amdt 3.525

**Authority for post-mortem examination if body of deceased not at hospital**

s 33 am A2007-3 amdt 3.525

**Consent by coroner**

s 34 am 1989 No 38 sch 1; 1997 No 58 sch 2; A2010-10 amdt 2.118

**Effect of authority under pt 4**

s 35 am 1997 No 58 sch 2; A2010-10 amdt 2.118

**Meaning of *school of anatomy*—pt 5**

s 36 am 1989 No 38 sch 1

**Authority for anatomy if body of deceased at hospital**

s 37 am A2007-3 amdt 3.525

**Authority for anatomy if body of deceased not at hospital**

s 38 am A2007-3 amdt 3.525

**Consent by coroner**

s 40 am 1989 No 38 sch 1; 1997 No 58 sch 2; A2010-10 amdt 2.118

## Endnotes

4 Amendment history

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### Schools of anatomy

s 42 am 2001 No 44 amdts 1.4086-1.4090; A2009-20 amdt 3.204

### Regulations for the control etc of schools of anatomy

s 43 am 2001 No 44 amdt 1.4091, amdt 1.4092

### Certain contracts not to be entered into

s 44 am 1998 No 54 sch; A2010-10 amdt 2.118

### Act does not prevent specified removals of tissue etc

s 46 am A2010-10 amdt 2.118

### Offences

s 48 am 1997 No 58 sch 2; 1998 No 54 sch; A2004-15 amdt 2.198;  
pars renum R8 LA (see A2004-15 amdt 2.199)

### Disclosure of information

s 49 am 1998 No 54 sch; 1999 No 6; A2010-10 amdt 2.118

### Amendment of Seat of Government (Administration) Ordinance 1930

s 50 om R4 LRA

### Regulation-making power

s 51 am 1989 No 38 sch 1; 1998 No 54 sch  
sub 2001 No 44 amdt 1.4093  
am A2009-20 amdt 3.205

### Dictionary

dict ins A2007-3 amdt 3.524  
am A2008-36 amdt 1.644; A2010-10 amdt 2.116  
def **child** am A2004-2 amdt 1.54  
reloc from s 4 A2007-3 amdt 3.521  
def **coroner** reloc from s 4 A2007-3 amdt 3.521  
def **designated officer** reloc from s 4 A2007-3 amdt 3.521  
def **enrolled nurse** sub A2004-39 amdt 6.12  
reloc from s 4 A2007-3 amdt 3.521  
om A2010-10 amdt 2.117  
def **medical practitioner** reloc from s 4 A2007-3 amdt 3.521  
om A2010-10 amdt 2.117  
def **next of kin** sub A2003-14 amdt 1.103  
reloc from s 4 A2007-3 amdt 3.521  
def **non-regenerative tissue** reloc from s 4 A2007-3  
amdt 3.521  
def **parent** ins A2009-20 amdt 3.206  
def **regenerative tissue** reloc from s 4 A2007-3 amdt 3.521  
def **registered nurse** sub A2004-39 amdt 6.13  
reloc from s 4 A2007-3 amdt 3.521  
om A2010-10 amdt 2.117  
def **school of anatomy** ins A2007-3 amdt 3.524  
def **senior available next of kin** sub A2003-14 amdt 1.104  
reloc from s 4 A2007-3 amdt 3.521



def *tissue* ins A2009-20 amdt 3.207  
 def *tissue* reloc from s 4 A2007-3 amdt 3.521  
 om A2009-20 amdt 3.207  
 def *tissue*, for pt 2 ins A2007-3 amdt 3.524  
 om A2009-20 amdt 3.207  
 def *transplantation* ins A2007-3 amdt 3.524

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1990 No 63	30 September 1991
2	Act 1993 No 14	30 April 1993
3	Act 1999 No 6	31 March 1999
4	Act 2000 No 45	23 October 2000
5	Act 2001 No 56	17 January 2002
6	A2003-14	28 March 2003
7	A2004-2	22 March 2004
8	A2004-15	9 April 2004
9	A2004-39	17 January 2006
10	A2007-3	30 May 2007
11*	A2008-36	2 February 2009
12	A2009-20	22 September 2009

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