

2016

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**TRANSPLANTATION AND ANATOMY
AMENDMENT BILL 2016**

EXPLANATORY STATEMENT

**Presented by
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Outline

Purpose of the Bill

The intention of amending the *Transplantation and Anatomy Act 1978* is so that:

- a) the removal of whole organs is allowed, to the extent necessary for the purpose of tissue transplantation; and
- b) prior to death of an intended organ donor, the Coroner may direct that a coroner's consent is not required to release the body for the purpose of organ or tissue donation.

The effects of the substantive provisions of the Bill

- Designated officers are clearly endorsed to remove whole organs where this is required to support viable transport, storage and transplantation of tissues.
- The retrieval of organs and tissues will be more timely and efficient.

These two amendments will help to support the best transplant outcomes for the recipient.

Any associated bill that is part of the package

Nil.

Direct and indirect financial effect of the Bill

No additional financial effect will result from these amendments.

Description of savings, costs, revenue losses or gains (precise figures if available or estimates with explanation why not available)

Not applicable.

Detailed explanation with examples

In 2012 the *Transplantation & Anatomy Act 1978* (T&A Act) was amended to allow suitably trained officers who are not doctors to retrieve musculoskeletal, cardiovascular, eye and skin tissue from donors to improve the efficiency, effectiveness, timely delivery and quality of organ and tissue donation services.

The T&A Act prohibited these officers from harvesting whole organs as whole organ transplant procedures are complex and high risk procedures where the removal of the organ is critical to the transplant outcome.

It is not stated in the 2012 amendment that suitably trained officers, who are not doctors, can remove whole organs where only parts of the organs, such as heart valves, are to be used. This has led to uncertainty about whether the process is endorsed by the T&A Act.

In many cases these officers need to be able to remove whole organs to support safe transport, storage and transplantation of tissues and provide the best transplant outcomes for the person who receives them. Section 31 of the T&A Act can currently be interpreted as prohibiting designated officers from removing whole organs under any circumstance. This interpretation is incompatible with the intent of the 2012 amendment to the T&A Act to permit designated officers to remove all relevant musculoskeletal, cardiovascular, eye and skin tissue for the purpose of transplantation.

The ACT does not have capacity to process or store organs and tissues for transplant so these organs and tissues need to be transported to a specialised sterile facility in NSW.

Transporting the tissues as part of a whole organ helps to maintain the correct shape of the tissue and maintain sterility prior to collection.

The amendment, permitting the Coroner to provide direction, before death, that a coroner's consent is not required to release the body for the purpose of organ or tissue donation will help to speed up the retrieval of organs and achieve the best outcome for the person receiving the organ or tissue transplant.

Currently, the Coroner can only provide consent after the person has died. For the best outcome, organs must be harvested within five minutes after the person's heart stops. If there are any issues with contacting the Coroner the organs may be collected too late for the best outcome or collection may not be viable.

Allowing the Coroner to advise, before the person dies, that the Coroner's consent is not required after the death for organ donation will not change the rights of the next of kin or any other person empowered to consent to the organ or tissue donation. They will still make the final decision about whether donation goes ahead.

Commencement Provisions

This Act commences on the day after its notification day

Transitional Provisions

The amendments will not require transitional provisions:

The removal of whole organs is already occurring to the extent necessary for the purpose of tissue transplantation- the intent of the amendment is to clarify that this is permitted.

The Coroner is already empowered to provide consent for removal of tissue; the amendment simply enables the Coroner to choose to remove the requirement for obtaining coroner's consent after death where the Coroner considers the removal of tissue or organs will have no impact on their investigation.

Consequential Provisions

There are no consequential provisions