

# HUMAN TISSUE AND TRANSPLANT ACT 1982.

(No. 116 of 1982)

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# HUMAN TISSUE AND TRANSPLANT.

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No. 116 of 1982.

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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 repeal of the Tissue Grafting and Processing Act 1956-1966, the Sale of Human Blood Act 1963-1965 and section 338A of the Health Act 1911-1982 and for related purposes.

[Assented to 8 December 1982.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I—PRELIMINARY.

1. This Act may be cited as the *Human Tissue and Transplant Act 1982*. Short title.

Commence-  
ment.

2. This Act shall come into operation on 1 March 1983.

Interpreta-  
tion.

3. (1) In this Act, unless the contrary intention appears—

“blood” includes—

- (a) any substance derived from blood;  
and
- (b) any organ or tissue, including bone marrow and the placenta, of a kind that is suitable as a source from which to derive a constituent of blood for therapeutic use or for the preparation of a substance for therapeutic use;

“child” means a person who has not attained the age of 18 years;

“Commissioner” means the Commissioner of Public Health;

“coroner” has the same meaning as in the Coroners Act 1920;

“designated officer” in relation to a hospital, means a person nominated and approved under section 4 as the designated officer for that hospital;

“Division” means Division of the Part of this Act in which the term is used;

“medical practitioner” means a person who is registered as a medical practitioner under the Medical Act 1894;

“next of kin”—

- (a) in relation to a child, means a person referred to in subparagraph (i), (ii), (iii) or (iv) of paragraph (a) of the definition of “senior available next of kin”; and

- (b) in relation to a person other than a child, means a person referred to in subparagraph (i), (ii), (iii), or (iv) of paragraph (b) of the definition of “senior available next of kin”;

“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;

“section” means section of this Act;

“senior available next of kin”—

- (a) in relation to a child, means the first in order of priority of the following persons who is available at the time—
- (i) the spouse of the child;
  - (ii) a parent of the child;
  - (iii) a brother or sister, who has attained the age of 18 years, of the child;
  - (iv) a guardian of the child; and
- (b) in relation to a person other than a child, means the first in order of priority of the following persons who is available at the time—
- (i) the spouse 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;

“subsection” means subsection of the section in which the term is used;

“tissue” includes an organ or part of the human body or a substance extracted from, or from a part of, the human body.

(2) For the purposes of this Act “hospital” includes the State Mortuary of the State Health Laboratory Services Branch of the Public Health Department.

(3) A reference in this Act to the transplantation of tissue shall be read as including a reference to the transplantation of any part of the tissue and to the transplantation of a substance obtained from the tissue.

(4) Where in the case of a particular hospital there is no medical practitioner readily identifiable as the chief medical administrator of the hospital or there is doubt as to which medical practitioner is the chief medical administrator of the hospital, the Commissioner may nominate, either by name or by reference to office, a medical practitioner as the chief medical administrator of that hospital for the purposes of this Act.

Designated  
officers.

4. (1) The chief medical administrator of a hospital may by writing signed by him nominate a medical practitioner as the designated officer of that hospital for the purposes of this Act.

(2) A nomination under subsection (1) shall be submitted to the Commissioner for his approval and, upon the grant of approval by the Commissioner, the person nominated shall be the designated officer for the hospital concerned and may exercise the powers and shall be subject to the duties conferred and imposed on designated officers by this Act.

(3) The chief medical administrator of a hospital may revoke the nomination of a person as designated officer for the hospital by serving on that person a notice of the revocation signed by him.

(4) As soon as practicable after revoking the nomination of a person as designated officer for a hospital, the chief medical administrator of the hospital shall inform the Commissioner of the revocation.

(5) The Commissioner may revoke his approval of a person as designated officer for a hospital by serving on that person a notice of the revocation signed by him.

5. (1) A designated officer may, subject to and in accordance with this section, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to one or more persons any of his powers or duties under this Act, other than this power of delegation.

Delegation  
by designated  
officers.

(2) A delegation under this section may be made to a specified medical practitioner by name or to a medical practitioner who is the holder for the time being of a specified office at the hospital concerned, being in every case an office relevant to the subject matter of this Act.

(3) A delegation under this section—

(a) may be made subject to such conditions, qualifications, and exceptions as are set out in the instrument of delegation;

(b) shall have immediate effect, unless the instrument of delegation provides otherwise, and shall continue in force until revoked by writing signed by the designated officer and served on the delegate.

(4) A designated officer shall inform the Commissioner as soon as practicable of every delegation made by him under this section and where the delegation is to the holder of a specified office, the designated officer shall inform the Commissioner as soon as practicable of the name of each successive holder of that office and shall furnish further information in respect of such persons as the Commissioner may require.

(5) The Commissioner may, by writing signed by him and served on a designated officer, require the designated officer to revoke a delegation made by him and the designated officer shall immediately comply with such a requirement.

(6) A designated officer may exercise a power and perform a duty under this Act notwithstanding that he has delegated its exercise or performance under this section.

PART II—DONATIONS OF TISSUE BY LIVING PERSONS.

*Division 1—Exclusion of Certain Tissue.*

Interpreta-  
tion.

6. In this Part, a reference to tissue shall not be read as including a reference to foetal tissue, spermatozoa or ova.

*Division 2—Donations by Adults.*

Blood trans-  
fusions not  
subject to  
this Division.

7. Nothing in this Division prevents the removal in accordance with Division 5 of blood from the body of a person.

Consent by  
adult living  
donor to  
removal of  
regenerative  
tissue.

8. (1) A person who—
- (a) has attained the age of 18 years;
  - (b) is of sound mind; and
  - (c) is in the light of medical advice furnished to him prepared to do so,

may, by writing signed by him otherwise than in the presence of any member of his family or any of his friends, consent to the removal from his body of regenerative tissue, other than blood, specified in the consent—

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

(2) A person who has given a consent referred to in subsection (1) may, at any time before the removal of the regenerative tissue to which the consent applies, revoke, either orally or in writing, his consent to the removal.

9. (1) A person who—

- (a) has attained the age of 18 years;
- (b) is of sound mind; and
- (c) is in the light of medical advice furnished to him prepared to do so,

Consent by  
adult living  
donor to  
removal of  
non-  
regenerative  
tissue for  
transplanta-  
tion.

may, by writing signed by him otherwise than in the presence of any member of his family or any of his friends, consent to the removal, after the expiration of a period of 24 hours from the time at which the consent is signed, from his body of non-regenerative tissue specified in the consent for the purpose of the transplantation of the tissue to the body of another living person.

(2) A person who has given a consent referred to in subsection (1) may, at any time before the removal of the non-regenerative tissue to which the consent applies, revoke, either orally or in writing, his consent to the removal.

*Division 3—Donations from Children.*

10. Nothing in this Division prevents the removal in accordance with Division 5 of blood from the body of a child.

Blood trans-  
fusions not  
subject to  
this  
Division.

11. In this Division, a reference to the parent of a child shall not be read as including a reference to the guardian of a child or to another person standing *in loco parentis* to the child.

References  
to parents.

General  
prohibition  
against  
removal of  
tissue from  
children.

12. (1) It is not lawful, except as provided by this Part, to remove regenerative tissue from the body of a living child for the purpose of the transplantation of the tissue to the body of another living person.

(2) It is not lawful to remove non-regenerative tissue from the body of a living child for the purpose of the transplantation of the tissue to the body of another living person.

Removal for  
transplanta-  
tion of  
regenerative  
tissue from  
a child.

13. (1) A parent of a child may, in the circumstances specified in subsection (2), consent in writing 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) The circumstances specified for the purposes of subsection (1) are that—

- (a) medical advice has been furnished to the parent and the child regarding the nature and effect of the removal and the nature of the transplantation;
- (b) the child has the mental capacity to understand the nature and effect of the removal and the nature of the transplantation; and
- (c) the child has agreed to the removal of the regenerative tissue for the purpose of its transplantation to the body of the person referred to in subsection (1).

Revocation  
of consent.

14. A parent who has given a consent under this Division, or a child who has under this Division agreed to the removal of tissue from his body, may, at any time before the removal of the tissue to which the consent or agreement applies, revoke, either orally or in writing, his consent or agreement, as the case requires, to the removal.

*Division 4—Effect of Consents and Authorities.*

15. A consent under section 8 is, unless it has been revoked under section 8(2), sufficient authority for a medical practitioner, other than a medical practitioner by whom the medical advice referred to in that section was furnished, to remove the regenerative tissue referred to in the consent—

Consents  
under  
section 8.

- (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.

16. A consent under section 9 is, unless it has been revoked under section 9 (2), sufficient authority for a medical practitioner, other than a medical practitioner by whom the medical advice referred to in that section was furnished, to remove, after the expiration of a period of 24 hours after the time at which the consent was given, the non-regenerative tissue referred to in the consent for the purpose of the transplantation of the tissue to the body of another living person.

Consents  
under  
section 9.

17. A consent under section 13 is, unless the parent who gave the consent has revoked his consent or the child has revoked his agreement under section 14, sufficient authority for a medical practitioner, other than a medical practitioner by whom the medical advice referred to in that section was furnished, to remove from the body of the child the regenerative tissue referred to in the consent for the purpose of the transplantation of the tissue to the body of another member of the family of the child or of a relative of the child.

Consents  
under  
section 13.

*Division 5—Blood Transfusions.*

Consents by  
adults to  
removal of  
blood.

18. A person who—

- (a) has attained the age of 18 years; and
- (b) is of sound mind,

may consent to the removal of blood from his body for transfusion to another person or for use of the blood or of any of its constituents for other therapeutic purposes or for medical or scientific purposes.

Consents to  
the removal  
of blood  
from  
children.

19. The parent of a child may consent to a removal of blood from the body of the child for a use referred to in section 18 if—

- (a) a medical practitioner advises that the removal should not be prejudicial to the health of the child; and
- (b) the child agrees to the removal.

Consent to  
be sufficient  
authority  
for removal  
of blood.

20. A consent under this Division 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.

Blood  
transfusions  
upon  
children  
without  
parental  
consent.

21. (1) A medical practitioner may perform a blood transfusion upon a child without the consent of any person who is legally entitled to authorize the blood transfusion if—

- (a) such person—
  - (i) fails or refuses to so authorize the blood transfusion when requested to do so; or
  - (ii) cannot be found after such search and enquiry as is reasonably practicable in the circumstances of the case;

and

- (b) the medical practitioner and another medical practitioner agree—
  - (i) as to the condition from which the child is suffering;
  - (ii) that the blood transfusion is a reasonable and proper treatment for that condition; and
  - (iii) that without a blood transfusion the child is likely to die; and
- (c) the medical practitioner who performs the blood transfusion on the child—
  - (i) has had previous experience in performing blood transfusions; and
  - (ii) has, before commencing the transfusion, assured himself that the blood to be transfused is suitable for the child.

(2) When a medical practitioner has performed a blood transfusion on a child without the consent of any person legally entitled to authorize it and in respect of that transfusion the requirements and conditions of this section have been complied with, the transfusion shall be deemed for all purposes to have been performed with the authority of a person legally entitled to authorize it.

(3) Where a medical practitioner other than the medical practitioner who is to perform the blood transfusion on the child cannot be found after search or enquiry for such time as the last-mentioned medical practitioner considers reasonable in the circumstances of the case, having regard to the emergency arising from the condition of the child, it is sufficient compliance with paragraph (b) of subsection (1) if that last-mentioned practitioner satisfies himself—

- (a) as to the condition from which the child is suffering;
- (b) that a blood transfusion is a reasonable and proper treatment for that condition;

- (c) that to delay the blood transfusion until that other medical practitioner can be found and be available for consultation would cause a serious deterioration in the child's condition; and
  - (d) that without a blood transfusion the child is likely to die.
- (4) In this section—

“blood transfusion” means the transfusion of human blood, any constituent of human blood or saline solution or other liquid, into a child and includes the exchange of the whole or any part of the blood of a child and all medical and surgical procedures necessary to perform the transfusion or exchange; and

“child” means a person who is or appears to be under the age of 18 years.

(5) Nothing in this section relieves a medical practitioner from liability in respect of the administration of a blood transfusion to a child being a liability to which he 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.

### PART III—DONATIONS OF TISSUE AFTER DEATH.

Authorities  
to remove  
tissue after  
death.

22. (1) A designated officer for a hospital may, subject to and in accordance with this section, authorize the removal of tissue from the body of a person who has died in hospital or whose dead body has been brought into the hospital—

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

(2) A designated officer for a hospital may authorize the removal of tissue from the body of a person who has died in the hospital or whose dead body has been brought into the hospital—

(a) where, after making inquiries, the designated officer is satisfied that the deceased person during his lifetime expressed the wish for, or consented to, the removal after his death of tissue from his body for the purpose or a use referred to in subsection (1) and had not withdrawn the wish or revoked the consent; or

(b) where, after making inquiries, the designated officer has no reason to believe that the deceased person had expressed an objection to the removal after his death of tissue from his body for the purpose or a use referred to in subsection (1) and the designated officer is satisfied that the senior available next of kin consents to the removal of tissue from the body of the deceased person for the purpose or a use referred to in subsection (1).

(3) The authority of a designated officer to authorize the removal of tissue from the body of a deceased person under this section is restricted by the expressed terms of the wishes or consent of the deceased person, or the consent of the senior available next of kin, as the case may be, both as to the tissue which may be removed and as to the purpose or use of the tissue.

(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 consents to the removal, after the death of the person, of tissue from the body of the person for the purpose or a use referred to in subsection (1), but the designated officer shall not act on such an indication if the person recovers consciousness.

(5) Where there are 2 or more persons having a description referred to in a subparagraph of paragraph (a) or (b) of the definition of "senior available next of kin" in section 3, an objection by any one of those persons has effect for the purposes of this section notwithstanding any indication to the contrary by the other or any other of those persons.

Consent by  
the coroner.

23. (1) If the designated officer for a hospital has reason to believe that the circumstances applicable in relation to the death of a person are such that a coroner has jurisdiction to hold an inquest into the manner and cause of the death of the person, the designated officer shall not, under and in accordance with section 22, authorize the removal of tissue from the body of the deceased person unless the coroner has given his consent to the removal.

(2) A coroner may give a direction either before or after the death of a person that his 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, subsection (1) does not apply to or in relation to the removal of tissue from the body of the person.

(3) 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.

(4) A consent or direction may be given orally by a coroner, and if so given, shall be confirmed in writing.

Effect of  
authority  
under this  
Part.

24. (1) Subject to subsection (2), an authority under this Part is sufficient authority for a medical practitioner, other than—

(a) a medical practitioner referred to in subsection (2); and

(b) the designated officer for the hospital or a person who has lawfully exercised his powers under section 22,

to remove tissue from the body of the deceased person referred to in the authority—

- (c) for the purpose of the transplantation of the tissue to the body of a living person; or
- (d) for use for other therapeutic purposes or for medical or scientific purposes,

but subject in every case to any limitations or restrictions that may be expressed in the authority given under section 22 (3).

(2) Where the respiration and the circulation of the blood of a person are being maintained by artificial means, tissue shall not be removed from the body of the person for the purpose or a use specified in subsection (1) unless 2 medical practitioners (each of whom has carried out a clinical examination of the person, each of whom has been for a period of not less than 5 years a medical practitioner and one of whom holds specialist qualifications in general medicine, neurology or neurosurgery or has such other qualifications as are accepted by the Commissioner) have declared that irreversible cessation of all function of the brain of the person has occurred.

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

#### PART IV—POST-MORTEM EXAMINATIONS.

25. (1) A designated officer for a hospital may, subject to and in accordance with this section and section 27, authorize a post-mortem examination of the body of a person who has died in the hospital or whose dead body has been brought into the hospital for the purpose of ascertaining the cause or extent of disease or any pathological condition that may be present in that person or for the teaching of pathology.

Authorities  
for  
post-mortem  
examina-  
tions.

(2) Where the designated officer, after making such inquiries as are reasonable in the circumstances, has reason to believe that the deceased person had, during his lifetime, expressed the wish for, or consented to, a post-mortem examination of his body and had not withdrawn the wish or revoked the consent, the designated officer may authorize under subsection (1) a post-mortem examination of the body.

(3) Where the designated officer, after making such inquiries as are reasonable in the circumstances, has no reason to believe that the deceased person during his lifetime—

(a) had expressed the wish for, or consented to, a post-mortem examination of his body;  
or

(b) had expressed an objection to the post-mortem examination of his body,

and after making those inquiries and such further inquiries as are reasonable in the circumstances, the designated officer—

(c) has no reason to believe that the senior available next of kin of the deceased person has an objection to a post-mortem examination of the body of the deceased person;

or

(d) is unable to ascertain the existence or the whereabouts of the next of kin of the deceased person or is unable to ascertain whether any of the next of kin of the deceased person has an objection to a post-mortem examination of the body of the deceased person,

the designated officer may authorize under subsection (1) a post-mortem examination of the body of the deceased person for the purpose referred to in that subsection.

(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 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) Where there are 2 or more persons having a description referred to in a subparagraph of paragraph (a) or (b) of the definition of "senior available next of kin" in section 3, an objection by any one of those persons has effect for the purposes of this section notwithstanding any indication to the contrary by the other or any other of those persons.

26. (1) Where the body of a deceased person is in a place other than a hospital, the senior available next of kin of the deceased person may, subject to and in accordance with this section and section 27, authorize a post-mortem examination of the body of the deceased person for the purpose of ascertaining the cause or extent of disease or any pathological condition that may be present in that person or for the teaching of pathology.

Authority for  
post-mortem  
examination  
where body  
of deceased  
person not in  
hospital.

(2) Subsection (1) does not apply where the senior available next of kin of the deceased person has reason to believe that—

- (a) the deceased person had, during his lifetime, expressed an objection to a post-mortem examination of his body and had not withdrawn his objection; or
- (b) another next of kin of the same or a higher order of the classes in paragraph (a) or (b) of the definition of "senior available next of kin" in section 3 has an objection to the post-mortem examination of the body of the deceased person.

(3) Where a deceased person, during his lifetime, expressed the wish for, or consented to, a post-mortem examination of his 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, authorized.

Consent by  
coroner.

27. (1) If the designated officer for a hospital or, in a case to which section 26 applies, the senior available next of kin, has reason to believe that the circumstances applicable in relation to the death of a person are such that a coroner has jurisdiction to hold an inquest into the manner and cause of the death of the person, the designated officer or the senior available next of kin, as the case may be, shall not authorize a post-mortem examination of the body of the deceased person unless the coroner has given his consent to the examination.

(2) Section 26 (3) does not operate in a case where a coroner has or may have jurisdiction to hold an inquest into the manner and cause of the death of a person unless a coroner has given his consent to the post-mortem examination.

(3) A coroner may give a direction either before or after the death of a person that his consent to a post-mortem examination of the body of the person is not required and, in that event, subsection (1) does not apply to or in relation to a post-mortem examination of the body of the deceased person.

(4) 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.

(5) A consent or direction may be given orally by a coroner, and if so given, shall be confirmed in writing.

28. (1) An authority under this Part is sufficient authority for a medical practitioner (other than, in a case to which section 25 applies, the designated officer for the hospital or a person who has lawfully exercised his powers under that section)—

*Effect of  
authority  
under this  
Part.*

- (a) to conduct such examination of the body of the deceased person as is necessary for the purpose of ascertaining the cause or extent of disease or any pathological condition that may be present in that person or for the teaching of pathology; and
- (b) to remove from the body of the person such tissue as is necessary for the purpose of the post-mortem examination.

(2) An authority under this Part is authority for the use, for therapeutic, medical, teaching or scientific purposes, of tissue removed from the body of the deceased person as part of the post-mortem examination.

(3) An order by a coroner under the Coroners Act 1920 directing a post-mortem examination is, subject to any order to the contrary by the coroner, authority for the use, for therapeutic, medical, teaching or scientific purposes, of tissue removed from the body of the deceased person as part of the post-mortem examination.

#### PART V—PROHIBITION ON TRADING IN TISSUE.

29. (1) Subject to this section, a contract or arrangement under which a person agrees, for valuable consideration, whether given or to be given to himself or to another person—

*Trading in  
tissue.*

- (a) to the sale or supply of tissue from his body or from the body of another person, whether before or after his 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 body after his death or of the body of another person after the death of the other person,

is void.

(2) A person who enters into a contract or arrangement of the kind referred to in subsection (1) and to which that subsection applies commits an offence.

Penalty: \$1 000.

(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) The Governor may, by Order in Council published in the *Gazette*, declare that subsection (1) does not apply to the sale or supply of a specified class or classes of product derived from tissue that has been subjected to processing or treatment.

(5) A person who as vendor or supplier enters into a contract or arrangement for the sale or supply of a product of a class specified in an order made under subsection (4) commits an offence if the tissue from which the product was derived was obtained under a contract or arrangement that is void by reason of subsection (1).

Penalty: \$1 000.

(6) Nothing in this section renders inoperative a consent or authority given or purporting to have been given under this Act in relation to tissue from the body of a person or in relation to the body of a person if a person acting in pursuance of the consent or authority did not know and had no reason to know that the tissue or the body was the subject matter of a contract or arrangement referred to in subsection (1).

30. A person shall not—

- (a) publish or disseminate by newspaper, book, broadcasting, television, cinematograph or other means whatever;
- (b) exhibit to public view in a house, shop or place; or
- (c) deposit in the area, yard, garden or enclosure of a house, shop or place,

Advertisements relating to buying human tissue prohibited.

an advertisement relating to the buying in Australia of human tissue or of the right to take tissue from the bodies of persons.

Penalty: \$500 or imprisonment for 3 months or both.

#### PART VI—MISCELLANEOUS.

31. (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 authority given, or purporting to have been given, in pursuance of this Act where the act is done without negligence and in good faith.

Exclusion of liability of persons acting in pursuance of consent, etc.

(2) Without limiting the generality of the expression “in good faith”, a person shall be regarded as having done an act referred to in subsection (1) in good faith if the person establishes that—

- (a) he had an honest and reasonable belief that a consent, agreement or authority required by this Act for the doing of the act had been given; or
- (b) he had no reason to doubt that a consent, agreement or authority 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.

Act does not  
prevent  
specified  
removals of  
tissue etc.

32. (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 medical practitioner 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;
- (b) the use of tissue so removed;
- (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.

(2) In this section, “tissue” has the same meaning as in Part II.

Offences in  
relation to  
removal of  
tissue.

33. (1) A person shall not—

- (a) remove tissue other than blood from the body of a living person for use for a purpose specified in sections 8, 9 or 13 except in pursuance of a consent or authority that is under Division 4 of Part II sufficient authority for the person to remove the tissue for use for that purpose;
- (b) remove blood from the body of a living person for transfusion or a use specified in section 18 except in pursuance of a consent that is under Division 5 of Part II sufficient authority for the removal of the blood;
- (c) remove tissue from the body of a deceased person for a purpose or use referred to in section 22(1) except in pursuance of an

authority that is under Part III sufficient authority for the person to remove the tissue for that purpose or use;

- (d) conduct a post-mortem examination of the body of a deceased person unless the post-mortem examination is made in pursuance of an authority that is under Part IV sufficient authority for the person to conduct the post-mortem examination; or
- (e) in conducting a post-mortem examination of the body of a deceased person, remove tissue from the body of a person unless the removal is necessary as part of the post-mortem examination.

Penalty: \$500.

(2) A designated officer for a hospital or a person to whom a designated officer has lawfully delegated any of his powers or duties under this Act who issues an authority under this Act—

- (a) without having made any of the inquiries that a designated officer is required to make under this Act; or
- (b) without making such inquiries as are reasonable in the circumstance of the case,

is guilty of an offence.

Penalty: \$1 000.

(3) Nothing in subsection (1) applies to or in relation to—

- (a) any act for which a person is not, by reason of section 31, criminally liable;
- (b) anything done in pursuance of an order by a coroner under the Coroners Act 1920;  
or
- (c) any other act authorized by law.

Disclosure of  
information.

34. (1) Subject to this section, a person shall not disclose or give to any other person any information or document whereby the identity of a person—

- (a) from whose body tissue has been removed for the purpose of transplantation or for use for other therapeutic purposes or for medical, teaching or scientific purposes;
- (b) with respect to whom or with respect to whose body a consent or authority has been given under this Act; or
- (c) into whose body tissue has been, is being, or may be, transplanted,

may become publicly known.

Penalty: \$500.

(2) Subsection (1) does not apply to or in relation to any information disclosed—

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

Regulations.

35. The Governor may make regulations prescribing all matters that are required or permitted to be prescribed by this Act or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

1982.]

*Human Tissue and  
Transplant.*

[No. 116.

36. (1) The Tissue Grafting and Processing Act 1956-1966 and the Sale of Human Blood Act 1963-1965 are repealed. <sup>Repeals.</sup>

(2) Section 338A of the Health Act 1911-1982 is repealed.

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