

**HUMAN TISSUE AMENDMENT ACT 1987****No. 51 of 1987****TABLE OF PROVISIONS**

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**HUMAN TISSUE AMENDMENT ACT 1987**

**No. 51 of 1987**

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**AN ACT to amend the Human Tissue Act 1985.**

**[Royal Assent 18 August 1987]**

**B**E it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1**—This Act may be cited as the *Human Tissue Amendment Act 1987*. Short title.

**2**—This Act shall commence on the day on which it receives the Royal assent. Commencement.

**3**—In this Act, the *Human Tissue Act 1985*\* is referred to as the Principal Act. Principal Act.

**4**—The title of the Principal Act is amended by inserting “for the definition of death,” after “transplantation,”. Amendment of title of Principal Act.

**5**—After section 25 of the Principal Act, the following section is inserted:— Insertion of new section 25A in Principal Act.

\* Act No. 118 of 1985.

Certificates  
required in  
certain situations.

25A—(1) Where—

- (a) a person has died within the meaning of section 27A; and
- (b) at the time at which he died or at any time thereafter his respiration was being maintained by artificial means,

a designated officer for a hospital shall not give an authority under this Part in respect of that deceased person unless 2 medical practitioners, each of whom has been a medical practitioner for a period of not less than 5 years, have each certified in writing—

- (c) that he carried out a clinical examination of the person while the respiration of that person was being maintained by artificial means; and
- (d) that, in his opinion, at the time of that examination, irreversible cessation of all function of the brain of the person had already occurred.

Penalty for a contravention of this subsection: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both.

(2) For the purposes of subsection (1), 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 place outside Australia shall be taken into account in calculating the period of 5 years referred to in that subsection.

Substitution of  
section 26 of  
Principal Act.

6—Section 26 of the Principal Act is repealed and the following section is substituted:—

Effect of  
authority under  
this Part.

26—(1) An authority under this Part is sufficient authority for a medical practitioner other than—

- (a) a medical practitioner referred to in section 25A (1); and
- (b) in a case to which section 23 applies, the designated officer 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) A contravention by a designated officer of section 25A (1) in relation to the giving of an authority does not affect the validity of the authority.

7—After Part IV of the Principal Act, the following Part Insertion of new Part IVA in Principal Act. is inserted:—

PART IVA  
DEFINITION OF DEATH

27A—For the purposes of the law of Tasmania, a person When death occurs. 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.
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8—The Principal Act is further amended as set out in Further amendments—penalties. Schedule 1.

## SCHEDULE 1

## Section 8

## AMENDMENTS RELATING TO PENALTIES

## 1. Section 27 (1)—

Omit—

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

Substitute—

Penalty for a contravention of this subsection: Fine not exceeding 5 penalty units or imprisonment for a term not exceeding 3 months, or both.

## 2. Section 30 (1)—

Omit—

Penalty: \$1 000 or imprisonment for 6 months, or both.

Substitute—

Penalty for a contravention of this subsection: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 6 months, or both.

## 3. Section 30 (2)—

Omit—

Penalty: \$10 000 or imprisonment for 2 years, or both.

Substitute—

Penalty for a contravention of this subsection: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

## 4. Section 30 (3)—

Omit—

\$1 000

Substitute—

10 penalty units

## 5. Section 31 (1)—

Omit—

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

Substitute—

Penalty for a contravention of this subsection: Fine not exceeding 5 penalty units or imprisonment for a term not exceeding 3 months, or both.

## 6. Section 31 (2)—

Omit—

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

Substitute—

Penalty for a contravention of this subsection: Fine not exceeding 5 penalty units or imprisonment for a term not exceeding 3 months, or both.

## 7. Section 32—

Omit—

not exceeding \$250

Substitute—

being a fine not exceeding 2.5 penalty units

