

Human Tissue (Amendment) Bill

EXPLANATORY MEMORANDUM

Outline

The objective of this Bill is to amend the *Human Tissue Act* 1982 so that persons, other than medical practitioners, can be authorized to remove tissue from dead bodies for transplantation purposes.

It will also delete the requirement that only a medical practitioner who has been a practitioner for at least five years can certify death for the purposes of the Act, except in those instances where respiration or blood circulation is being artificially maintained.

A further amendment to the Principal Act extends the protections afforded a medical practitioner when giving an emergency blood transfusion to a child without parental consent to encompass procedures incidental to the transfusion.

CLAUSE NOTES

Clause 1 sets out the purposes of the Act.

Clause 2 provides for the commencement of the Act on Royal Assent.

Clause 3 makes the following amendments to the *Human Tissue Act* 1982:

Paragraph (a) repeals the table of Parts and Divisions in section 1. This will enable the Act to be reprinted in modern format.

Paragraph (b) substitutes a new subsection (2) in section 24 of the Act. Section 24 currently enables a medical practitioner, subject to various safeguards, to give a blood transfusion to a child, notwithstanding that parental consent was refused or could not be obtained, if the transfusion is necessary to save the life of the child. The effect of the amendment is to provide similar protections to a medical practitioner while carrying out any incidental procedures, including the taking of a preliminary blood sample.

Paragraph (c) makes consequential changes to the wording of section 24 (3) of the Act.

Paragraph (d) inserts a new section to replace section 25 of the Principal Act. The new section will give the Governor in Council the ability to authorize by regulation persons to remove a prescribed type of tissue from deceased bodies for the purpose of transplantation. Under the present Act, tissue can only be removed by medical practitioners.

Paragraphs (e)–(h) make various consequential amendments to section 26 of the Act.

Paragraph (i) omits the requirement in section 26 (7) (a) that, in order to certify death for the purposes of the Act, a medical practitioner must be of at least five years standing. However, the requirement that a medical practitioner must have practised for at least five years will be retained in section 26 (7) (b) which deals with certifications of death where respiration or blood circulation is being maintained by artificial means.

Paragraphs (j) and *(k)* make amendments consequential upon paragraph (d) to sections 27 and 45 of the Act.

