



New South Wales

Human Tissue Legislation Amendment Act 2012 No 72

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Human Tissue Legislation Amendment Act 2012 No 72

Act No 72, 2012

An Act to amend the *Human Tissue Act 1983* to make further provision with respect to the removal of tissue from a deceased person; and to amend the *Anatomy Act 1977* to make further provision with respect to the authorisation of anatomical examinations. [Assented to 22 October 2012]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Human Tissue Legislation Amendment Act 2012*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Human Tissue Act 1983 No 164

[1] Section 23 Authority to remove tissues where body of deceased at hospital

Omit section 23 (3) (a). Insert instead:

- (a) the deceased person had not, during the person's lifetime, expressed an objection to the removal of tissue from the person's body after the person's death or, if the person had expressed such an objection, based on the most recent views expressed by the deceased person, the person no longer had an objection to the removal of tissue from the person's body, and

[2] Section 24 Authority to remove tissue where body of deceased not at a hospital

Omit section 24 (4) (a). Insert instead:

- (a) the deceased person had, during the person's lifetime, expressed an objection to the removal of tissue from the person's body after the person's death unless, based on the most recent views expressed by the deceased person, it appears that the person no longer had an objection to the removal of tissue from the person's body, or

[3] Section 27 Effect of authority under this Part

Insert "cardiovascular or" before "musculoskeletal tissue" in section 27 (1A) wherever occurring.

[4] Section 27 (1B)

Insert after section 27 (1A):

- (1B) Despite subsection (1A), an authority under this Part which authorises the removal of tissue for the purpose of the transplantation of cardiovascular tissue is not sufficient authority for a person other than a medical practitioner to remove the whole of a heart for the purpose of a heart transplant.

[5] Section 27A

Insert after section 27:

27A Guidelines for removal of tissue after death

The Director-General may issue guidelines relating to the removal of tissue after death, including in relation to recording

reasons for not proceeding with the removal of tissue from the body of a deceased person, where the deceased person has given consent but the family has objected.

[6] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Human Tissue Legislation Amendment Act 2012

[7] Schedule 1

Insert at the end of the Schedule with appropriate Part and clause numbering:

**Part Provision consequent on enactment of
Human Tissue Legislation Amendment
Act 2012**

**Authority to remove tissue where prior objection or views
expressed**

Sections 23 and 24, as amended by the *Human Tissue Legislation Amendment Act 2012*, extend to any relevant expression of objection or views that occurred before the commencement of that Act.

Review of amendments

- (1) The Minister is to review this Act to determine whether the amendments made by the *Human Tissue Legislation Amendment Act 2012* have been effective in achieving an increase in the rate of tissue donation in the State.
- (2) In conducting the review the Minister is to consider any matters affecting the effectiveness of those amendments, including matters relevant to the administration of this Act.
- (3) The review is to be undertaken as soon as possible after the period of 5 years from the commencement of the *Human Tissue Legislation Amendment Act 2012*.
- (4) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 2 Amendment of Anatomy Act 1977 No 126

[1] Section 8 Authority for anatomical examination where body of deceased at a hospital or forensic institution

Omit section 8 (3) (a). Insert instead:

- (a) the deceased person had not, during the person's lifetime, expressed an objection to the anatomical examination of the person's body after the person's death or, if the person had expressed such an objection, based on the most recent views expressed by the deceased person, the person no longer had an objection to the anatomical examination of the person's body, and

[2] Section 8A Authority for anatomical examination where body of deceased not at a hospital or forensic institution

Omit section 8A (4) (a). Insert instead:

- (a) the deceased person had, during the person's lifetime, expressed an objection to the anatomical examination of the person's body after the person's death unless, based on the most recent views expressed by the deceased person, it appears that the person no longer had an objection to the anatomical examination of the person's body, or

[3] Schedule 2 Savings, transitional and other provisions

Insert at the end of the Schedule with appropriate Part and clause numbering:

**Part Provision consequent on enactment of
Human Tissue Legislation Amendment
Act 2012**

**Authority for anatomical examination where prior objection or
views expressed**

Sections 8 and 8A, as amended by the *Human Tissue Legislation Amendment Act 2012*, extend to any relevant expression of objection or views that occurred before the commencement of that Act.

[Second reading speech made in—

Legislative Assembly on 5 September 2012

Legislative Council on 16 October 2012]