

**Reprint**  
**as at 1 November 2008**

**Human Tissue Act 1964**

Public Act 1964 No 19  
Date of assent 16 October 1964

Human Tissue Act 1964: repealed, on 1 November 2008, by section 93(1) of the Human Tissue Act 2008 (2008 No 28).

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

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**An Act to consolidate certain enactments of the General Assembly relating to post-mortem examinations, the practice of anatomy, and the removal of human tissue for therapeutic purposes and for purposes of medical education and research**

**1 Short Title and commencement**

- (1) This Act may be cited as the Human Tissue Act 1964.
- (2) This Act shall come into force on the 1st day of January 1965.

**2 Interpretation**

- (1) In this Act, unless the context otherwise requires,—

**Anatomical examination** means examination of a body or any part of a body for the purpose of the study of the science of anatomy

**Body** means a dead human body; but does not include the body of a stillborn child

**Health computer system** means any system of computers and terminals—

- (a) Under the control of the Director-General of Health; or
- (b) Part of which is under the control of the Director-General of Health:

Health computer system: this definition was inserted, as from 1 December 1989, by section 2 Human Tissue Amendment Act 1989 (1989 No 121).

Health computer system, paragraph (b) of this definition was amended, as from 1 July 1993, by section 32 Health Reforms (Transitional Provisions) Act 1993 (1993 No 23) by omitting the words “and part of which is under the control of an area health board or a hospital board”.

**Inspector**, in relation to any school of anatomy, means a person appointed under section 8 of this Act to be an Inspector of that school of anatomy

**medical practitioner** means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003.

Medical practitioner: this definition was substituted, as from 13 December 1968, by section 2 Human Tissue Amendment Act 1968; A reference to the Medical Practitioners Act 1968 was substituted for the repealed Medical Practitioners Act 1950.

Medical practitioner: this definition was substituted, as from 1 July 1996, by section 143(1) Medical Practitioners Act 1995 (1995 No 95). *See* clause 2 Medical Practitioners Act Commencement Order 1996 (SR 1996/162).

Medical practitioner: this definition was substituted, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48). *See* sections 178 to 227 of that Act as to the transitional provisions.

**Minister** means the Minister of Health

**Practise anatomy** means teach the science of anatomy by performing an anatomical examination

**School of anatomy** means a school of anatomy established under section 7 of this Act.

- (2) Without limiting the rights, powers, or duties of any person entitled under any rule of law to the possession of any body, it is hereby declared that, for the purposes of this Act, the following persons shall be deemed to be persons lawfully in possession of bodies in the cases hereinafter specified, namely:
- (a) the person for the time being in charge of any hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001, in respect of any body lying in that institution:
  - (b) The person for the time being in charge of any hospital within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992, in respect of any body lying in the hospital, being the body of a patient:
  - (c) the prison manager of any prison, in respect of any body lying in the prison that is the body of a prisoner.

Compare: 1908 No 116 s 24; 1954 No 40 ss 3, 4(1)

Subsection (2)(a) was substituted, as from 1 April 1984, by section 98 Area Health Boards Act 1983.

Subsection (2)(a) was substituted, as from 1 July 1993, by section 32 Health Reforms (Transitional Provisions) Act 1993 (1993 No 23).

Subsection (2)(a) was substituted, as from 1 October 2002, by section 58(1) Health and Disability Services (Safety) Act 2001 (2001 No 93). *See* section 11 of that Act for transitional provisions.

In the original subsection (2)(b) the reference to a “psychiatric hospital” within the meaning of the Mental Health Act 1969 was substituted for a reference to a “public institution” within the meaning of the Mental Health Act 1911 by section 129(6) of the Mental Health Act 1969; and the word “hospital” has been substituted for the word “institution” accordingly.

Subsection (2)(b) was substituted, as from 1 July 1993, by section 32 Health Reforms (Transitional Provisions) Act 1993 (1993 No 23).

Subsection (2)(c) was substituted, as from 1 June 2005, by section 206 Corrections Act 2004 (2004 No 50). *See* clause 2 Corrections Act Commencement Order 2005 (SR 2005/52).

### **3 Removal of human tissue for therapeutic purposes, etc.**

- (1) If any person, either in writing at any time or orally in the presence of 2 or more witnesses during his last illness, has expressed a request that his body or any specified part of his body be used after his death for therapeutic purposes or for purposes of medical education or research, the person lawfully in possession of his body after his death may, unless he has reason to believe that the request was subsequently withdrawn, authorise the removal from the body of any part or, as the case may be, the specified part, for use in accordance with the request.
- (1A) Where a record of a request in writing to which subsection (1) of this section applies is held on a health computer system, the person lawfully in possession of the body of the person who made the request may, in reliance on the record, unless that person has reason to believe that the request was subsequently withdrawn, authorise the removal from the body of any part or (as the case may be) the specified part for use in accordance with that request.
- (2) Without limiting subsection (1) of this section, it is hereby declared that the person lawfully in possession of the body of a deceased person may authorise the removal of any part from the body for use for the said purposes if, having made such reasonable inquiry as may be practicable, he has no reason to believe—

- (a) That the deceased person has expressed an objection to his or her body being so dealt with after death, and had not withdrawn it; or
  - (b) That the surviving spouse, civil union partner, de facto partner, or any surviving relative of the deceased person objects to the body being so dealt with.
- (3) Subject to subsections (4) and (5) of this section, the removal and use of any part of a body in accordance with an authority given in pursuance of this section shall be lawful.
- (4) No such removal shall be effected except by a medical practitioner, who must have satisfied himself by personal examination of the body that life is extinct.
- (5) A person who believes on reasonable grounds that a coroner may require a post-mortem examination of a body or may, in relation to a body, open an inquiry into the death concerned, must not, except with the coroner's consent,—
- (a) give an authority under this section in respect of the body; or
  - (b) act on such an authority given by any other person.
- (6) No authority shall be given under this section in respect of any body by a person entrusted with the body for the purpose only of its interment or cremation.
- (7) Nothing in this section shall be construed as rendering unlawful any dealing with, or with any part of, the body of a deceased person which is lawful apart from this Act.

Compare: 1908 No 116 ss 24A, 24B; 1954 No 40 s 2; Human Tissue Act 1961, s 1 (U.K.)

Subsection (1A) was inserted by section 3 Human Tissue Amendment Act 1989 (1989 No 121).

Subsection (2)(b) was amended, as from 1 January 2002, by section 53 Human Rights Amendment Act 2001 (2001 No 96), by inserting the words “, surviving de facto partner of the same or different sex,” after the words “surviving spouse”.

Subsection (2)(b) was amended, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3) by substituting the words “civil union partner, de facto partner” for the words “surviving de facto partner of the same or different sex”.

Section 3(5): substituted, on 1 July 2007, by section 146 of the Coroners Act 2006 (2006 No 38).

**4 Post-mortem examinations**

- (1) Nothing in sections 5 to 9 of this Act shall apply to any post-mortem examination directed to be made by a coroner or any other competent legal authority, or to any post-mortem examination carried out for the purpose of establishing or confirming the causes of death or investigating the existence or nature of abnormal conditions or for any of the purposes specified in section 3 of this Act.
- (2) No post-mortem examination shall be carried out otherwise than by or in accordance with the instructions of a medical practitioner; and no post-mortem examination, other than one which is directed or requested by a coroner, or any other competent legal authority, shall be carried out without the authority of the person lawfully in possession of the body; and subsections (2), (5), and (6) of section 3 of this Act shall, with the necessary modifications, apply with respect to the giving of that authority.
- (3) A reference in this section to a post-mortem examination directed to be made, or requested, by a coroner includes any receipt or removal of body parts, taking of bodily samples, or retention, return, or disposal of body parts or bodily samples under sections 47 to 56 of the Coroners Act 2006.

Compare: 1908 No 116 ss 24B, 37; 1954 No 40 s 2; Human Tissue Act 1961, s 2 (UK)

Section 4(3): inserted, on 1 July 2007, by section 146 of the Coroners Act 2006 (2006 No 38).

**4A Restrictions on persons holding probationary registration**

*[Repealed]*

In the original section 4A, the references to “the Medical Practitioners Act 1968” and “section 16” of that Act were substituted, as from 1 April 1968, for the repealed Medical Practitioners Act 1950 and section 10 of that Act.

Section 4A was substituted, as from 1 July 1996, by section 143(1) Medical Practitioners Act 1995 (1995 No 95). See clause 2 Medical Practitioners Act Commencement Order 1996 (SR 1996/162).

Section 4A was repealed, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48). See sections 178 to 227 of that Act as to the transitional provisions.

## **5 Anatomical examinations**

- (1) If any person, either in writing at any time or orally in the presence of 2 or more witnesses during his last illness, has expressed a request that his body be used after his death for the purposes of anatomical examination, the person lawfully in possession of the body after death may authorise such an examination, and may permit the body to be removed to a school of anatomy accordingly, unless he has reason to believe that the request was subsequently withdrawn, or unless objection to the body being so dealt with is made by—
  - (a) The surviving spouse, civil union partner, or de facto partner of the deceased person; or
  - (b) If there is no surviving spouse, civil union partner, or de facto partner, a person who is the nearest known relative, or one of the nearest known relatives, of the deceased person.
- (2) Without limiting subsection (1) of this section, it is hereby declared that the person lawfully in possession of the body of a deceased person may authorise the body to be used for the purposes of anatomical examination, and may permit the body to be removed to a school of anatomy accordingly, if, having made such reasonable inquiry as may be practicable, he has no reason to believe—
  - (a) That the deceased person had expressed an objection to his or her body being so dealt with after death, and had not withdrawn it; or
  - (b) That the surviving spouse, civil union partner, de facto partner, or any surviving relative of the deceased person objects to the body being so dealt with.
- (3) Subsections (5) and (6) of section 3 of this Act shall, with the necessary modifications, apply with respect to the giving of any authority under this section.

Compare: 1908 No 116 ss 31, 32

Subsection (1)(a) was amended, as from 1 January 2002, by section 54(a) Human Rights Amendment Act 2001 (2001 No 96), by inserting the words “or surviving de facto partner (whether of the same or different sex)” after the words “surviving spouse”.

Subsection (1)(a) was amended, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3) by substituting the words “, civil union partner, or de facto partner” for the words “or surviving de facto partner (whether of the same or different sex)”.

Subsection (1)(b) was amended, as from 1 January 2002, by section 54(b) Human Rights Amendment Act 2001 (2001 No 96), by inserting the words “or surviving de facto partner (whether of the same or different sex)” after the words “surviving spouse”.

Subsection (1)(b) was amended, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3) by substituting the words “, civil union partner, or de facto partner” for the words “or surviving de facto partner (whether of the same or different sex)”.

Subsection (2)(b) was amended, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3) by inserting the words “, civil union partner, de facto partner,” after the word “spouse”.

## **6 Removal, burial, and cremation of bodies**

- (1) Any person empowered by this Act to authorise the use of a body for anatomical examination shall, before causing the body to be removed to a school of anatomy, cause a written notice in duplicate to be sent to the medical practitioner in charge of that school of his intention so to do, and shall, so far as he is able, state in that notice the following particulars:
  - (a) The name, age, and sex of the deceased person:
  - (b) The place, date, and cause of death:
  - (c) The religion of the deceased person.
- (2) Every body that is removed for anatomical examination under this Act shall, before it is so removed, be placed in a decent coffin or shell and shall be removed therein.
- (3) The medical practitioner in charge of any school of anatomy to which a body is removed for anatomical examination shall, within 24 hours of the time at which the body is received at the school of anatomy, cause to be sent to any Inspector notice in writing of the receipt of the body into the said school of anatomy.
- (4) In no case shall any body undergo anatomical examination until after 36 hours have elapsed from the time of death, nor until after 24 hours’ notice has been given to an Inspector of the intention to make the examination.
- (5) All human remains resulting from anatomical examination shall be buried or cremated in accordance with the written instructions of an Inspector, who shall take into consideration

any wishes that the deceased or his relatives may have expressed:

Provided that, with the permission of an Inspector, any part of the body may be retained indefinitely for further study.

- (6) Notwithstanding anything in this Act or in any other enactment, the written instructions of an Inspector shall be sufficient authority for the cremation of any body that has been removed for anatomical examination or of any human remains resulting from such an examination.
- (7) In the month of November in each year, the medical practitioner in charge of any school of anatomy shall cause to be sent to an Inspector a return specifying the name of every person whose body has undergone anatomical examination at the school of anatomy during the year and has been disposed of by burial or cremation under this section.

Compare: 1946 No 40 s 53

## **7 Schools of anatomy**

- (1) The Governor-General in Council may from time to time authorise the establishment of schools of anatomy where the study and practice of anatomy may be carried on in connection with any University or school of medicine, in such place or places and upon such conditions as he thinks fit, and may at any time revoke any such authority.
- (2) It shall not be lawful for any person to perform an anatomical examination, or to receive or have in his possession any body for anatomical examination, at any place other than a school of anatomy.
- (3) Nothing in this section shall prevent any person, who is licensed under this Act to practise anatomy and who obtains the permission of an Inspector in writing for that purpose and the permission of the governors, teachers, or proper authorities of the school at which he is licensed to practise anatomy, from removing any body or portion of a body to such place as the Inspector deems fit for the purpose of practising anatomy, upon such terms and conditions as the Inspector and authorities of the school, in their uncontrolled discretion, think fit.

Compare: 1908 No 116 ss 25, 34

**8 Inspectors of schools of anatomy**

- (1) The Minister may from time to time, with the concurrence of the Minister in Charge of Police, appoint one or more members of the Police as an Inspector or Inspectors of any school of anatomy, and may direct in what manner Inspectors shall transact the duties of their office.
- (2) Every Inspector shall, unless he sooner dies, continue in office until some other person is appointed in his place.
- (3) Every Inspector of a school of anatomy shall make a quarterly return to the Minister of all bodies which, during the preceding quarter, have been removed for anatomical examination to the school, or that may have been removed to any other place under the provisions of section 7 of this Act, distinguishing the sex and, as far as is known at the time, the name and age of each person whose body was so removed as aforesaid.
- (4) An Inspector may visit and inspect at any time the school of anatomy for which he is appointed an Inspector.
- (5) There shall be payable to an Inspector, out of money appropriated by Parliament for the purpose, such remuneration as is fixed from time to time by the Minister of Finance.
- (6) Every Inspector of any school of anatomy who was in office immediately before the commencement of this Act shall continue in office after the commencement of this Act as if he had been appointed by the Minister under this section.

Compare: 1908 No 116 ss 27, 28, 29, 30

**9 Licences to practise anatomy**

- (1) Subject to the provisions of section 10 of this Act, it shall not be lawful for any person to practise anatomy, or to receive or have in his possession any body for anatomical examination, unless he is licensed under this section to practise anatomy.
- (2) The Minister may grant a licence to practise anatomy, subject to such conditions as he sees fit to impose, to any medical practitioner who is employed to teach at a school of anatomy.
- (3) Any licence granted under this section shall specify the school of anatomy at which the holder of the licence may practise anatomy.

- (4) Any licence granted under this section shall continue in force until it is cancelled or surrendered:  
Provided that any such licence may, if the Minister thinks fit, be granted for any specified period, and in any such case the licence may be renewed from time to time by the Minister, if he thinks fit, for any specified period.
- (5) Any licence granted under this section may be cancelled by the Minister at any time by notice in writing to the holder of the licence.
- (6) Any licence to practise anatomy that was subsisting immediately before the commencement of this Act shall continue in force after the commencement of this Act as if it had been granted by the Minister under this section.

Compare: 1908 No 116 s 26

## **10 Savings**

Nothing in sections 5 to 9, or in section 12, of this Act shall be construed as prohibiting—

- (a) Any anatomical examination or the practice of anatomy by any person who is acting under the directions and supervision of a person licensed to practise anatomy and is carrying out the anatomical examination or the practice of anatomy at a school of anatomy or place at which the person so supervising is licensed to practise anatomy; or
- (b) The receipt or possession of a body on behalf of a person so licensed.

## **11 Decency to be observed**

Any person performing a post-mortem or anatomical examination or removing any part of a body pursuant to this Act shall do so in a manner that avoids unnecessary mutilation of the body which is being examined or from which any such removal is being effected, and shall conduct the examination or removal in an orderly, quiet, and decent manner.

Compare: 1908 No 116 s 35

**12 Offences**

Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000, or to imprisonment for a term not exceeding 3 months, who,—

- (a) Not being a medical practitioner, performs any post-mortem examination otherwise than in accordance with the instructions of a medical practitioner; or
- (b) Not being licensed under this Act to practise anatomy, practises anatomy, or, otherwise than on behalf of a person so licensed, receives or has in his possession any body for the purpose of anatomical examination; or
- (c) Performs an anatomical examination of a body at a place where or at a time when that examination is prohibited by this Act.

Compare: 1908 No 116 s 39

The sum of \$1,000 was substituted for £500 by section 7 of the Decimal Currency Act 1964.

**13 Repeals**

The following enactments are hereby repealed:

- (a) The Medical Act 1908:
  - (b) Section 53 of the Statutes Amendment Act 1946:
  - (c) The Medical Amendment Act 1954.
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## Human Tissue Act 2008

Public Act 2008 No 28  
Date of assent  
Commencement see section 2

### 1 Title

This Act is the Human Tissue Act 2008.

### 2 Commencement

- (1) Sections 1, 2, and 89 come into force on the day after the date on which this Act receives the Royal assent.
- (2) Sections 87 and 88, and the heading above section 87, come into force as provided by section 89.
- (3) The rest of this Act comes into force on a date to be appointed by the Governor-General by Order in Council.

Section 2(3): Human Tissue Act 2008 (except sections 1, 2, 87, 88, 89, and the heading above section 87) brought into force, on 1 November 2008, by the Human Tissue Act 2008 Commencement Order 2008 (SR 2008/311).

## Part 3

### Technical and miscellaneous provisions

#### *Savings and transitional provisions*

### 96 Schools of anatomy and inspectors of them

- (1) Orders authorising the establishment of schools of anatomy and in force on the repeal of the Human Tissue Act 1964 must after that repeal be treated as orders under section 77, and may be amended, revoked, or revoked and replaced under that section accordingly.
- (2) **Orders authorising the establishment of schools of anatomy** means the following orders under section 3 of the Anatomy Act 1875 or section 7 of the Human Tissue Act 1964:
  - (a) Order in Council Authorising the Establishment of a School of Anatomy in connection with the University of Otago, 15 June 1876 *New Zealand Gazette* No 34 page 407:

- (b) Order in Council Authorising the Establishment of a School of Anatomy in connection with Auckland University College, 5 March 1888 *New Zealand Gazette* No 14 page 298:
  - (c) University of Otago School of Anatomy Order 1969 (SR 1969/278) (Wellington Hospital):
  - (d) University of Otago School of Anatomy Order 1988 (SR 1988/206) (Christchurch Hospital).
- (3) Every inspector of a school of anatomy who was in office immediately before the repeal of the Human Tissue Act 1964 continues in office after that repeal as if appointed by the Director-General—
- (a) under section 80(1) and (2)(a), if the inspector is a member of the police; and
  - (b) under section 80(1) and (2)(b), in every other case.
- (4) Every direction by the Minister to an inspector of a school of anatomy under section 8(1) of the Human Tissue Act 1964 and in force on the repeal of that Act must after that repeal be treated as a direction by the Director-General under section 83, and may be amended, revoked, or revoked and replaced under that section accordingly.

#### **97 Existing holdings of human tissue**

- (1) This section applies to human tissue that, immediately before the repeal of the Human Tissue Act 1964, had been collected, or was being used (**existing holdings**).
  - (2) Collection, use, exportation, and importation of existing holdings must comply with all relevant requirements and quality, safety, and other standards prescribed or approved by regulations under section 74 or 75.
  - (3) However, no other requirements in this Act apply to existing holdings, and the Human Tissue Act 1964 continues to apply to existing holdings as if that Act had not been repealed.
  - (4) To avoid doubt **requirements**, in subsection (3), includes requirements that are, or are part of, offences or prohibitions.
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## **Notes**

### **1 *General***

This is an eprint of the Human Tissue Act 1964. It incorporates all the amendments to the Act as at 1 November 2008. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

### **2 *About this eprint***

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

### **3 *List of amendments incorporated in this eprint (most recent first)***

Human Tissue Act 2008 (2008 No 28): section 93(1)

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